1903-007 Chancery Causes: A. M. Pennington vs. Pocket Co.]
Lee Co.

Mallett, Nicoll

CA-Contract Dispute
T-Property

-Deed

To the Honorable H. A. W. Skeen, Judge of the circuit court for Lee County, Virginia:

Humbly complaining, your orator, A.N.Pennington, a citizen of said county, respectfully represents, that William Pennington, being the owner in fee of a certain tract of land, lying and being in th e County of Lee, in the Rocky Station Magisterial District, in that section of country called the "Pocket", on the 10th day of October, A.D.,1891, sold and conveyed the same along with other lands to one Chas.E.Mallett, and for a particular description of the same reference is hereby made to the said deed from the said William Penninngton and wife to the said Chas.E.Mallett, a copy of which is herewith filed as a part hereof, marked "Exhinit No.1.". The tract of land herein referred to is the tract last described in said deed, and containing one hundred and seventy (170) acres more or less. Said deed is recorded in Lee County Deed Book No.27, at pages 448 &c. From an inspection of the said deed it will be observed that the said one hundred and seventy acre tract was valued at and sold for the price of twenty-five ($25.00) per acre, that five hundred dollars was paid down on the whole lands conveyed, and that a vendor's lien was retained in the said deed to secure the payment of the residue of the purchase money and its interest.

Your orator further represents that at the First February rules 1897, the said William Pennington filed his bill in chancery in the said court, against said Chas.E.Mallett and the Pocket Company, a foreign corporation, alleging that on the 10th day of October,1891, he sold, comveyed and delivered to the said Chas.E.Mallett,two certain tracts of parcels of land, lying and being in Lee County, in the Pocket Country--one of the tracts containing eight hundred and twenty-four acres at the price of fifteen dollars per acre, and the other containing one hundred and seventy acres at the price of twenty-five dollars per acre, or the sum of sixteen thousand six hundred and ten dollars for both tracts; that by the terms of the said

sale, which was expressed in the deed made, said Mallett paid down to him on the purchase price of said two tracts of land the sum of five hundred dollars, and was to pay on January 1st,1892, five hundred dollars more, and the residue with interest from the 10th day of October,1891 (the interest payable semi-annually, beginning with April 10th,1892), payable on or before October 10th,1896; that the said Mallett, or his assignee paid to him the five hundred dollars which was to be paid on January 1st, 1892, and also the first two years interest; that said Mallett by deed conveyed said land to the said Pocket Company, a corporation organized under the laws of Kentucky; that fifteen thousand five hundred and ten dollars of the purchase of said two tracts of land, with interest thereon from the 10th day of October, 1893, was then due and unpaid to him; that when he conveyed the said lands to the said Mallett, on the face of the deed of conveyance he reserved a lien upon the lands so conveyed to secure the unpaid purchase money and interest to accrue thereon; that said Chas.E.Mallett was a non-resident of the state of Virginia; and that the said Pocket Company was a corporation created by the laws of the state of Kentucky, and had no officer or agent within the state of Virginia on whom process might be served, and praying that said Chas.E.Mallett and the said Pocket Company be made parties defendant thereto; that they be required to answer the same but not upon oath; that an order of publication be duly made against said defendants as the law requires in such cases; that he be declared to have a first and vendor's lien on the said two tracts of land for the amount of unpaid purchase money then due him, with its interest; and that said lands or enough thereof be sold to satisfy his said lien, and for general relief &c.

Your orator files herewith a complete transcript of the record of the said chancery cause of William Pennington v. Chas.E.Mallett et al., marked "Exhinit No.2.", and asks that the same may be treated as a part of this bill.

From an [illegible]

From an inspection of this record it will be observed that the Pocket Company mentioned in the said bill was proceeded against under the name of the Pocket Coal Company, an entirely different name. The affidavit for order of publication describes the said Company as the "Pocket Coal Co." The subpoena issued against said defendants, which however, was not executed, is against the "Pocket Coal Company, a corporation organized ~~xxd~~ under the State of Kentucky and doing business in the State of Virginia." In the order of publication against the said Chas.E.Mallett, the said Company is likewise described as the"Pocket Coal Company, a corporation,", and in the published notice against said Company it is called the "Pocket Coal Company, a corporation organized under the laws of the State of Kentucky &c."

From a further inspection of the said record, it will be observed that a sale of the said land was ordered for the payment of the said purchase money; that pursuant to the said decree, E.W. Pennington, Special Commissioner, on the 19th day of May, 1897, ma de sale of the said two tracts of land, by public auction, at which sale C.D.Russell and Isaiah Pennington became the purchasers at the price of three thousand dollars ($3000.oo); and that the said purchasers have completed their purchase and obtained a deed for the said land from the court's said commissioner.

Your orator further represents that shortly after their said purchase of the said two tracts of land the said C.D.Russell and Isaiah Pennington mutually partitioned the said lands between them, the said Russell taking the said eight hundred and twenty_four acre tract as his share, and the said Isaiah Pennington, the said one hundred and seventy acre tract as his share, and pursuant to their said agreement of partition the said C.D.Russell, by deed dated the 8th day of Dec, 1901, and recorded in Lee County Deed Book No. 38, page 166, conveyed the said one hundred and seventy acre tract to the said Isaiah Pennington, as will fully appear from an inspec-

~~tion~~

tion of the said deed, a copy of which is herewith filed as a part hereof, marked "Exhibit No.3."

Your orator further represents that by deed dated the 27th day of Aug, 1901, the said Isaiah Pennington and wife sold andd conveyed the said one hundred and seventy acre tract of land to your orator and L.M.Zion, as will more fully appear from an inspection of a certified copy of the said deed, make from Lee County Deed Book No. 38, page 263, which is herewith filed as a part hereof, marked "Exhib it No.4."

Your orator further represents by deed dated the 10th day of Feby, 1902, and recorded in Lee County Deed Book No.39, page 287, the said L.M.Zion and wife, conveyed the said one hundred and seven-ty acre tract of land, along with other lands, to your orator, as will more fully appear from an inspection of the said deed, a copy of which is herewith filed as a part hereof, marked "Exhibit No.5."

Your orator alleges that immediately after the said sale by the said E.W.Pennington, special Commissioner, the said Isaiah Penning-ton took possession of the said one hundred and seventy acre tract of land, and remained in the possession of the same until the sale by him to your orator and the said L.M.Zion, when he delivered the possession thereof to them, and that they continued in the possess-ion thereof until the date of the sale of his interest by said Zion to your orator, when your orator was given the exclusive possession, and since that time your orator has remained in the exclusive pos-session of the said land.

Your orator further states that the said land is valuable prin-cipally for its coal and timber, though there is located on the same a very comfortable dwelling house and there is some very fair farming land. Desiring however to have the said land, or rather the title thereto, ~~to be~~ in a condition to market at any time, and fearing that the fact that the said Pocket Company was proceeded against in the said chancery proceeding as the "Pocket Coal Company", might be con-

sidered such a defect as would prevent a sale of the same, your orator has thought it best to institute this proceeding for the purpose of curing the said defect.

So far as the record of deeds for Lee County show the said Chas.E.Mallett never did convey the said land to anyone, but the said bill alleges that he did convey the same to the said Pocket Company, a corporation, and your orator is informed that this is the fact in the case, though the said deed has never been recorded so far as the records of Lee County show.

The said Pocket Company is a corporation and was organized under the laws af the State of Kentucky, as your respondent is informed, believes and charges, but the only property it ever owned was situated in Lee County, Virginia, in the Pocket country, being composed of the two tracts herein referred to, and a tract of 1165 acres of land conveyed to said Mallett by John L.Pennington and wife, and by said Mallett to the said Pocket Company. The said Pocket Company never complied with the laws of Virginia with respect to having its charter recorded in Lee County, and designating a person on whom process might be served, but from the date of the organization of the said Company up to about the fall of 1893 the said Chas.E.Mallett, who was one of the directors of the said company, resided in Lee County, on the one hundred and seventy acre tract of land in controversy, on which he built a house, barn, fencing &c.

Your orator further alleges that Henry Nicoll, who was another director of the said Company, has resided in Lee County, Virginia, since about the year 1894, and still resides in said county. Your orator is advised that service of process on him, would be sufficient service as against the said Pocket Company, under the laws of Virginia.

Your orator alleges that no other officer or agent of the said Pocket Company resides in Lee County, at the present time, nor has any other officer, either President, Vice-President, Secretary, or Treasurer, ever resided in Lee County at any time so far as your orator is informed.

Your orator further alleges that he has purchased from William Pennington and has an assignment in writing for five thousand dollars of the said lien for purchase money retained in the deed from the said William Pennington to the said Chas.E.Mallett. Your orator purchased this lien as a matter of precaution so that in case the said Pocket Company should demand at the hands of the court a resale of the said land and the court should be of opinion that the said Company should be entitled to a decree for a resale and to the excess after paying the said vendor's lien, he would have the said lien as a protection of his title to that extent.

Now the object of this bill is to quiet the title of your orator to the said one hundred and seventy acre tract of land as against the said Pocket Company, and being without remedy at law, he prays that your honor's chancery court take cognizance of his cause and grant him the proper relief.

To this end your orator prays that the said Pocket Company be made a party defendant to this bill, and be required to answer the same, but not under oath that being waived, and that upon a hearing a decree be rendered against the said Pocket Company quieting the title of your orator to the said one hundred and seventy acre tract of land, and, if mistaken in this, then that full general relief, such as the nature of his cause merits, be granted him. May spa.issue &c.

L. T. Hyatt, P.Q.

Plffs Costs
Clerk 16.50
Tax 1.50
Shff 1.00
Atty 15.00
Co Clerk 3.20
Estimated 10.00
$47.20

A. N. Pennington
v } In Chancery
Pocket Company.

Bill.

1902, 1st Oct rules Bill
filed Spa executed on
Henry Nicoll & D. N.
" 2nd Oct rules D. N.
Confirmed and Cause
set for hearing

L. T. HYATT,
ATTORNEY AT LAW,
JONESVILLE, VIRGINIA.

To the Honorable H.A.W.Skeen, Judge of the Circuit Court of Lee County, Virginia:

The answer of the Pockett Company, a corporation, to a bill exhibited against it in this Honorable Court by A.N.Pennington.

Respondent saving the benefit of such exceptions as may be had to said bill for any reason, answering the same or so much thereof as it is advised it is necessary or material to answer, says that it ~~it~~ is true that William Pennington on the 10th day of October,1891 sold and conveyed to Charles H.Mallett, along with another tract of land, the tract of land referred to in the bill, containg 170 acres at theprice of $25.00 per acre, and on the two tracts thus sold the ~~the~~ said Mallett, the sum of $500.00 was paid down in cash. The total value of said two tracts at the contract price thereof was $16,525.00 The 170 acre tract, at the purchase price thereof amounting to $4,250.00.

It is further true that the said William Pennington retained a lien on both of these tracts for the purchase price thereof; and it is further true that at the first Penruary rules 1897, deferred payments on said land not having been made,the said Pennington filed his bill in this Honorable Court for the purpose of enforcing the said lien, and to this bill the said William Pennington made the Pockett Coal Company a party defendant alleging that the said Mallett had conveyed said land to said Pockett Coal Company. It is further true that the said Mallett, after he purchased said land from said William Pennington, conveyed the same to your respondent, and no notice was taken of respondent in the proceedings had by the said William Pennington to enforce said lien, and your respondent had no notice whatever of said proceedings. It was doubtless the purpose of the said Pennington to make the proper persons the defendants to said bill, but in this he wholly failed. It is likewise true that under the proceedings had in said cause said lands were directed to be sold in order to pay off and discharge the lien so retained by the said Pennington, and it is further true that on the 19th day of May, 1897, W.W.Pennington th the Commissioner appointed for the purpose sold said land , and

at said sale both tracts only brought the sum of $3000.00, the proportionate part of which on this tract is about $766.00, only a little more than one-sixth of the price it sold for to the said Mallett.

Respondent knows nothing of the agreements for partition between the said purchasers of said land, but supposed the plaintiff has correctly set them out.

Your respondent will no w show your Honor that said tract of land is valuable; that it has a vailid and subsisting interest therein and while it admits that said land is subject to ~~xxxxx~~ the lien for t the purchaseprice thereon, the price at which it sold by said Commissioner,is so small and insignificant that it is shocking to the conscience of the Court, and at a re-sale of said land your reppondent will cause said land to sell for more than double the price it brought at said Commissioner's sale. Whether said land will Bring the entire purchasemoney due thereon, your respondent does not know It was bought by Mallett at, perhaps, too high a price, but it is valuable land, underlain by a fine seam of coal and was sold by the Commissioner at a time when price of that kind of land was so low that a sale of them resulted in nothing but a sacrifice.

The pryaer of your respondent is that the sale made by Commissioner Pennington be set aside and said land resold and that your respondent's interest therein be protected, which has not been done and which it had no means of protecting in said former suit, not being a party thereto, and having no notice of said proceedings, and that for thispurpose this answer be treated as a cross bill or a petition for a re-opening and re-hearing of the cause in which said landswere decreed to be sold.

And now having fully answered, said respondent prays to be hence dismissed with his costs in this behalf expended.

C. A. Duncan

A. W. Pennington

vs. { answer

Pockett Company

Filed in open court
and by leave thereof
This the 14th day of
Nov. 1902,

A. B. Munsey, clk.

A. N. Pennington, ... Plaintiff.

vs. (In Chancery.) Decree Final.

Pocket Company, ... Defendantx.

This cause came on this the 13th day of July, 1903, to be heard upon the papers formerly read in the cause, and the report of L. T. Hyatt, special commissioner, this day filed, showing full dispursement of the $47.20, costs of suit, as directed by the decree entered in this cause on the 2nd day of March, 1903, and was argued by counsel. On consideration whereof, and no exceptions having been taken or filed to the said report, it is adjudged, ordered and decreed that the same be and it is hereby approved and confirmed.

And there appearing nothing further to be done in this cause, it is ordered that the same be stricken from the docket.

A. N. Pennington
v { In Chy
Pocket Company

Decree Final

Ent. Co B. 7, P. 341

Enter this decree
July 13, 1903.
H R W Fleet

A. N. Pennington, ...Plaintiff.

vs. ------ In Chancery. -------Decree No.3.

The Pocket Company, a corporation, ...Defendant~~x~~.

This cause came on this the 5th day of March, 1903, to be further heard upon the papers formerly read therein, and the report of L.T.Hyatt, Special Commissioner, filed herein on the 4th day of March, 1903, and the deed filed with the said report, and was argued by counsel. On consideration whereof, and it appearing to the court from the said report that the said commissioner has made, executed and delivered to A. N. Pennington, purchaser, a deed with special warranty, conveying to him the one hundred and seventy acre tract of land purchased by him, as required by the decree entered in this cause on the 2nd day of March, 1903, and that there are no exceptions to the said deed, it is adjudged, ordered and decreed that the said report and the deed filed therewith be and they are each hereby confirmed and approved; and that the said A.N.Pennington pay to the said L.T. Hyatt the sum of five dollars for making the said deed ; and that this cause be continued.

A. N. Pennington
vs. } In Chancery.
The Pocket Company,
a corporation.

Decree confirming report and deed.

Ent. C.B. 7. P. 235.

Enter this decree
March 5th 1903.
H. C. W. Strong

A. N. Pennington, ...Plaintiff.

vs. } In Chancery.

The POCKET COMPANY, a corporation, ... Defendant.

This cause came on this the 2nd day of March, 1903, to be heard upon the papers formerly read herein, and the report of L. T.Hyatt, special commissioner, filed herein on the 20th day of ~~March~~ January, 1903, and was argued by counsel.

Upon consideration of all which, and the said report having been filed the time required by law and no exceptions having been filed or taken thereto, it is adjudged, ordered and decreed that the said report be and the same is hereby confirmed, and that the sale therein reported of the one hundred and seventy acre tract of land (being the tract last described in the deed from Wm.Pennington to Charles E.Mallett, dated October 1st, 1891, and recorded in Lee County Deed Book No.27, page 448 &c.) to the plaintiff, A.N.Pennington, at the price of six thousand and fifty dollars ($6050.00), be and the same is also hereby confirmed.

And it further appearing from the said report that the said commissioner has in his hands the sum of forty-seven dollars and twenty cents ($47.20), being the costs of this suit, as taxed by the clerk of this court, which were paid to him by the said purchaser of the said land on the 19th day of January, 1903, the day of said sale, it is further adjudged, ordered and decreed that said commissioner disburse the said costs to the officers and persons entitled thereto, taking proper receipts therefor, and report his action to the court at the next term.

And it further appearing from the said report that no notes were required of the purchaser for the residue of the purchase price of the said land, and that the whole of said residue of said purchase price belongs to the said purchaser, the said purchase price being less than the amount of his first lien against the said tract of land, the court is of opinion that the said purchaser is entitled to a conveyance of the said land, and it is therefore further adjudged, ordered and decreed that L.T.

Hyatt, who is hereby appointed a special commissioner for the purpose do make, execute and deliver to the said A.N.Pennington a deed, conveying to him, with special warranty, the said one hundred and seventy acre tract of land, and report his action to this court at a future day of this term, and until the coming in of the said last mentioned report, this cause is continued.

A. N. Pennington
v. } In Chancery
The Pocket Company,
a corporation.

Decree confirming sale, directing Comr. to disburse costs, and appointing Comr. to make conveyance.

Ent. C.O.B. No 7. P. 212

Enter this decree
March 2nd 1903.
H. A. W. Shu

Virginia,

At a circuit court continued and held for Lee County at the court--house thereof on Friday, November the 14th 1902.

A. N. Pennington----------Plaintiff

vs. In Chancery.

The Pocket Company, a corporation,------Defendant.

On motion of the defendant company, by C. T. Duncan , its attor--ney leave is granted it to file its answer to the the plaintiff's bill, and the same is accordingly filed, and the plaintiff replied generally thereto.

And thereup on this cause coming on this the 14th day of November 1902, to be heard upon the said complainant's bill and exhibits filed there-with, the said answer of the said defendant company to the said bill and replication to the said answer, was argued by counsel.

On consideration whereof the court is of opinion that the proceedings had in the chancery cause lately pending in this court entitled "Wil--liam Pennington vs. Chas. E. Mallett et al " and a transcript of the record which is filed an an exhibit with the plaintiffs bill did not pass the legal title held by the defendant Company to the One hundred and seventy acre tract of land mentioned and described in said bill, and that the said company is entitled to a re-sale of the said land as prayed in their said answer; but the court is of opinion that the said plaintiffstanding in the shoes of Isaih Pennington and C. D. Rus--sell, the purchasers thereof at the sale made under the proceedings in this cause is entitled to a first lien thereon for the amount of the pur--chase money paid by them thereon, or the sum of Seven Hundred and Sixty seven Dollars and sixty one cents ($767.61) and that the said plaintiff by reason of assignment to him by the said William Pennington of Five Thousand Dollars ($5000.00) with interest of the original vendor's lien against the said land, is entitled to a further lien against the said tract of land for the sum ofFour thousand two hundred and fifty Dollars ($4250.00), the price which the said Chas E. Mallett agreed to pay the said William Pennington therefor and forwhich said Pennington retained his vendor's lien, less the sum of Two hundred and fifty five Dollars and eighty seven cents($255.87) being the prorata part of the One thous--and dollars paid by the said Chas. E. Mallett on both tracts which is applied to theprice of this tract and the said sum of $767.61 above

mentioned. It is thereofre adjudged ordered and decreed that L.T.Hyat who is hereby appointed a commissioner for the purpose, do proceed , by public auction,at the front door of the court house of Lee County, on a court day, to sell the said One hundred and seventy acre tract of land set out and described in the said bill upon the terms of cash in hand sufficient to pay the costs of this suit and commissions of sale , and on a credit of one and two years time, in equal installments as to the remainder, and said commissioner will require of the purchaser bonds with good security for the deferred payments; but before making said sale hereunder the said commissioner will first advertise the same by posting written or printed notices thereof at three or more public places in Lee County, for at least thirty days prior thereto one of which shall be at the front door of the court house of said county, and another inth vicinity where the said land lies.

And before proceeding to execute this decree of sale the said commissioner shall execute bond before the clerk of thiscourt in the penalty of Ten thousand dollars, conditioned as required by law, with security approved by the clerk.

It is further adjudged ordered and decreed that the proceeds of said sale shall be aplied as follows: The sum of Three thousand, nine hundred and ninety four dollars and thirteen cents($3994.13) with legal interest thereon from the said 10th day of October 1893 shall be first paid to the said A. N. Pennington; and the residue, if any, shall be paid to the said Pocket Company.

The said commissioner will report his action hereunder to a future term of this court; and the cause is continued.

A Copy
Teste A.B. Munsey Clerk

(2)

mentioned. It is thereofre adjudged ordered and decreed that L.T.Hyat who is hereby appointed a commissioner for the purpose, do proceed , by public auction,at the front door of the court house of Lee County, on a court day, to sell the said One hundred and seventy acre tract of land set out and described in the said bill upon the terms of cash in hand sufficient to pay the costs of this suit and commissions of sale , and on a credit of one and two years time, in equal installments as to the remainder, and said commissioner will require of the purchaser bonds with good security for the deferred payments; but before making said sale hereunder the said commissioner will first advertise the same by posting written or printed notices thereof at three or more public places in Lee County, for at least thirty days prior thereto one of which shall be at the front door of the court house of said county, and another inth vicinity where the said land lies.

And before proceeding to execute this decree of sale the said commissioner shall execute bond before the clerk of this court in the penalty of Ten thousand dollars, conditioned as required by law, with security approved by the clerk.

It is further adjudged ordered and decreed that the proceeds of said sale shall be aplied as follows: The sum of Three thousand, nine hundred and ninety four dollars and thirteen cents ($3904.13) with legal interest thereon from the said 10th day of October 1893 shall be first paid to the said A. M. Pennington; and the residue, if any shall be paid to the said Pocket Company.

The said commissioner will report his action hereunder to a future term of this court; and the cause is continued.

A. M. Pennington et al
vs } Copy of decree
The Pocket Company

Executed Nov 27th 1903
by Returning a true
copy of the within
Decree to L.T. Hyat, atty
W. D. Mulchan
L.C.

Copy for
L. T. Hyatt

A. N. Pennington, ...Plaintiff.

vs. } In Chancery.--Decree.

The Pocket Company, a corporation,.....Defendant~~s~~.

On motion of the defendant~~xxxxxxxxxxxx~~ company, by C.T. Duncan, its counsel, leave is granted it to file its answer to the plaintiff's bill, and the same is accordingly filed, and the plaintiff replied generally thereto.

And thereupon this cause coming on this the 14th day of November, 1902, to be heard upon the said plaintiff's bill and exhibits filed therewith, the said answer of the said defendant company to the said bill, and replication to the said answer, was argued by counsel.

On consideration whereof the court is of opinion that the proceedings had in the chancery cause lately pending in this court entitled "William Pennington vs.Chas.E.Mallett et al.", and a transcript of the record of which cause is filed as an exhibit with the plaintiff's bill, did not pass the legal title held by the defendant company to the one hundred and seventy acre tract of land mentioned and described in the said bill, and that the said company is now entitled to have a re-sale of the said tract of land as prayed in their said answer; but the court is further of opinion that the said plaintiff, standing in the shoes of Isaiah Pennington and C.D.Russeell, the purchasers thereof at the sale made under the proceedings in said cause, is entitled to a first lien ~~lien~~ thereon for the amount of the pruchase money paid by them thereon, or the sum of seven hundred and sixty-seven dollars and sixty- one cents ($767.61), and that the said plaintiff, by reason of the assignment to him by the said William Pennington of ~~a part~~ five thousand dollars ($5000.00), with interest, of the original vendor's lien against said land, is entitled to a further lien against the said tract of land for the sum of four thousand two hundred and fifty-dollars ($4250.00), the price which the said Chas.E.Mallett agreed to pay the said William ~~Pennington thereto~~

Pennington therefore and for which said Pennington retained his vendor's lien, less the sum of two hundred and fifty-five dollars and eighty-seven cents ($255.87), being the pro rata part of the one thousand dollars paid by said Chas.E.Mallett on both tracts which is applied to the price of this tract, and the said sum of $767.61 above mentioned

It is, therefore, adjudged, ordered and decreed that L.T. Hyatt, who is hereby appointed a special commissioner for the purpose, do proceed, by public auction, at the front door of the court-house of Lee county, on a court day, to sell the said one hundred and seventy acre tract of land set out and described in the said bill upon the terms of cash in hand sufficient to pay the costs of this suit and commissions of sale, and on a credit of one and two years, in equal installments, as to the residue, and said commissioner will require of the purchaser bonds with good security for the deferred payments; but before making sale hereunder the said commissioner will first advertise the same by posting written or printed notices thereof at three or more public places in Lee County, for at least thirty days prior thereto, one of which shall be the front door of the court-house of said county, and another in the neighborhood where the said land lies. And before proceeding to execute this decree of sale the said commissioner shall execute before the clerk of this court a bond in the penalty of ten thousand dollars, conditioned as required by law, with security approved by the said clerk.

It is further adjudged ordered and decreed that the proceeds of the said sale shall be applied as follows: The sum of three thousand, nine hundred and ninty-four dollars and thirteen cents ($3994.13), with legal interest thereon from the said 10th day of October, 1893, shall be first paid to the said A.N.Pennington; and the residue, if any, shall be paid to the said Pocket Company.

The said commissioner will report his action hereunder to a future term of this court; and the cause is continued.

Pennington therefore and for which said Pennington retained his vendor's lien, less the sum of two hundred and fifty-five dollars and eighty-seven cents ($255.87), being the pro rata part of the one thousand dollars paid by said Chas.E.Mellett on both tracts which is applied to the price of this tract.

It is, therefore, adjudged, ordered and decreed that L.T. Watt, who is hereby appointed a special commissioner for the purpose, do proceed, by public auction, at the front door of the court-house of Lee county, on a court day, to sell the said one hundred and seventy acres tract of land set out and described in the said bill upon the terms of cash in hand sufficient to pay the costs of this suit and commissions of sale, and credit of one and two years, in equal installments, as the residue, and said commissioner will require of the purchaser bonds with good security for the deferred payments; but before making sale hereunder the said commissioner will first advertise the same by posting written or printed notices thereof at three or more public places in Lee county, one of which shall be the front door of the court-house of said county, and another in the neighborhood where the said land lies. And before proceeding to execute this decree of sale the said commissioner shall execute before the clerk of this court a bond in the penalty of ten thousand dollars, conditioned as required by law, with security approved by the said clerk.

It is further adjudged ordered and decreed that the proceeds of the said sale shall be applied as follows: The sum of three thousand, nine hundred and ninty-four dollars and thirteen cents ($3994.13), with legal interest thereon from the said 10th day of October, 1893, shall be first paid to the said A.W.Pennington; and the residue, if any, shall be paid to the said Pocket Company.

The said commissioner will report his action hereunder to a future term of this court; and the cause is continued.

A. W. Pennington
v.
The Pocket Company
a corporation.

Decree for Sale.

Entered Oct. 13, 1893 No. 7 P. 207

Entered decree
Nov. 1, 1893.
A. Z. Lee, Clerk

To the Honorable H. A. W. Skeen, Judge of the circuit court for Lee County, Virginia:

Having been appointed a special commissioner by a decree entered by the said court on the 2nd day of March, 1903, in the chancery cause entitled "A.N.PENNINGTON vs. The POCKET COMPANY, a corporation", therein pending, and as such directed to make execute and deliver to the said A.N.Pennington a good and sufficient deed, conveying to him, with special warranty, the one hundred and seventy acre tract of land purchased by him in this cause, respectfully reports that he has executed the said decree by making and executing and acknowledging the said deed, as required, and he here files the same for the inspection and approval of the court.

Respectfully submitted,

L. P. Hyatt.

Special Commissioner.

A. N. Pennington

v. { In Chancery.

The Pocket Company.

Report of L. T. Hyatt,
Comr. of Deed.

Filed March 4th 1903
A. B. Murray Clerk

Land Sale.

A. N. Pennington
vs. } IN CHANCERY.
The Pocket Company

Pursuant to decree of the Circuit Court of Lee County, Virginia, at the Nov. *term, 190*2*, in the above styled cause, the undersigned will, at public outcry, at the front door of the Courthouse of said county, on the first day of the* January *term, 190*3*, being January 19th 1903, of the County Court of said county, proceed to sell, to the highest and best bidder, on a credit of* one and two years *time, except so much as may be necessary to pay the cost of suit and expense of sale [which are required to be paid in hand], the following described property:* That certain tract or parcel of land lying in Lee County, Virginia, in the "Pocket", known as the One hundred and Seventy acre tract which Wm Pennington conveyed to C. E. Mallett by deed dated October 10th 1891, and recorded in Lee County Deed Book No. 27 page 448, to which reference is here made for a more particular description of said one hundred and seventy acres by meets and bounds.

Bonds with good and approved personal security will be required of the purchaser for the deferred payments. This 8 *day of* Dec. *190*2

L. T. Hyatt, *Commissioner.*

The Bond required by Law has been given.

....., *Clerk.*

A. N. Pennington $6050.00

To the Honorable Henry A.Wise Skeen, Judge of the circuit court for Lee County, Virginia:

The undersigned, having been appointed a special commissioner by a decree entered at the November Term, 1902, of the said caurt, in the chancery cause therein pending entitled "A.N.PENNINGTON vs. The POCKET COMPANY, a corporation," and thereby directed after certain ~~xxxxxxxxxx~~ advertisement and upon certain terms to make sale of certain real estate therein referred to, respectfully reports that he has executed the said decree in the following manner:

He first executed before the clerk of the said court the bond required by the said decree, and a copy of the said bond appears on file in the papers in said cause;

He then advertised the sale of the said real estate by posting three notices thereof, one at the front door of the court-house of the said county, one at the Post office in the town of Pennington Gap, and another at a school house situated on the said land, and a few feet from the public road leading by the same, and he attaches to this report a copy of the said notice;

On the 19th day of January, 1903, that being the first day of the January term, 1903, of the county court for Lee County and the day mentioned and fixed in the said notice as the day of sale, at the front door of the court-house of the said county, during the noon recess of the court, he offered the one hundred and seventy acre tract of land in the bill and proceedings in said cause mentioned for sale by public outcry, to the highest bidder, on the terms set out in the decree for sale, in the presence of a large number of citizens; and that the biddings therefor began at the low figure of one hundred dollars, but were continually raised by different bidders, until finally the plaintiff, A.N.Pennington, offered for the said land the sum of six thousand and fifty dollars, and that being the highest and best bid offered for the said land, the same was knocked off to him at that price. The said purchaser paid to me in cash the sum of forty-seven dollars and twenty cents, being the costs of said suit as taxed by the clerk of said court, and settled with me the commissions

of sale. I did not require of the purchaser notes for the deferred payments for the reason that he himself, by the decree of sale, holds a first lien on the said land for a sum a little larger than the entire amount of his bid according to my calculation.

A confirmation of the said sale is recommended, your commissioner believing that the land brought a very handsome price at this time, though the land will doubtless be worth much more money in the course of a few years.

All which is respectfully submitted,

L. T. Hyatt

Special Commissioner.

A. N. Pennington

v } In Chancery

The Pocket Company

Report of L. T. Hyatt, Spe. Comr. of sale of 170 acre tract to A. N. Pennington.

Filed Jany 20th 1903.
A B McCausey Clerk

To the Honorable H. A. W. Skeen, Judge of the circuit court for Lee County, Virginia:

Having been directed by a decree rendered by the said court on the 2nd day of March, 1903, in the chancery cause therein pending, "Entitled "A. N. Pennington vs. Pocket Company", to disburse to the parties entitled the sum of $47.20, shown by my report of sale, to be in my hands, I now respectfully report that I have dispursed the same as follows:

To myself, legal attorney's fee.....	$15.00
To A. B. Munsey, his fees as clerk and writ tax,....	18.08
To B. M. Morgan, county court clerk, his fees,.....	3.20
To D. B. Byington, Deputy Sheriff, his fees,	.50
To I. P. Ely, Deputy sheriff, his fees,.....	.50
To W. J. Mileham, sheriff, his fees	.50
To myself as attorney for plff, the balance	9.42
Total, ...	$47.20

There remains noting further to be done in the cause, and the same may now be stricken from the docket.

Respectfully submitted,

July 13, 1903.

L. P. Hyatt

Specila Commissioner.

A. N. Pennington

v. } In Chy.

Pocket Company.

Report of L. T. Hyatt, Comr. of disbursement of $47.20 costs

Filed July 13th 1903.
A. B. Murray Clerk

This Deed made this the 10th day of October A.D.1891 by Wm.Pennington and Barbary J. his wife parties of the first part, to Chas. E.Mallett of Brooklyn New York party of the second part,

Witnesseth, that for and in consideration of the sum of fifteen dollars per acre for the tract of land hereinafter first described and twenty-five dollars per acre for the tract of land hereinafter last described, five hundred dollars in hand paid, the receipt of which is hereby acknowledged, five hundred dollars due and payable January 1st, 1892, and the residue with legal interest thereon from this date, payable on or before Oct.10th, 1896, and the accruing interest on said last deferred payment due and payable semi-annually beginning with April 10th, 1892, and so on, until said last deferred payment is fully paid. The said parties of the first part do and each of them doth hereby give, grant, bargain, sell, convey and deliver unto said Mallett all of two certain tracts or parcels of land lying and being in Lee County, in the Pocket country except such of the same as was on the 23rd day of September 1882, conveyed to F.A. Stratton by said parties of the first part. The first of which tracts of land being the same land that was conveyed by D.S.Dickinson Benj. D.Martin and M.B.D.Lane, Comr.&c. to said Wm.Pennington and bounded as follows, to-wit: Beginning at a small red oak on top of the dividing ridge between Big branch and Coal Bank branch, thence with the top of said ridge N.24½ W.11½ poles to a chestnut, N. 3½ E.31¾ poles to a small red oak bush, N. 31 W. 28 poles, N.12½ E. 16¾ poles, N. 4. W.10 poles, N.22 E.19¼ poles, N.23½ W.17¼ poles, N.49½ W.30½ poles to a hickory on the top of said ridge, thence leaving the top of said ridge and with the top of another spur or ridge N.34 W.4¾ poles to a black gum, N. 89¼ W.20 poles to a black gum and white oak, S.47 W.10 poles to a red oak, S.25 W.11¾ poles to a chestnut, S.7½ W.22 poles to a double chestnut, S. 3¼ W. 40 poles to a red oak, thence leaving the top of said ridge S. 81 W.33 poles to a poplar on the west side of Coal Bank branch, N.79¼ W.20 poles to a beech on the west side of Puckets creek, S.62 W.22 poles to a dogwood on a ridge N.83½ W.15 poles to a maple, chestnut and spotted oak on top of a ridge, thence

with the top thereof N.41½ W. 5¾ poles, N.47 W.12½ poles, N.39 W.8 poles, N.30¼ W.11¼ poles to a chestnut on the top of said ridge, N. 69½W.13 poles to a dead oak, S.84½ W.6½ poles to a maple, S.48½ W.12¼ poles to a chestnut oak on top of a ridge, N.70¾ W.25¾ to a double chestnut (John L.Pennington's corner), thence continuing with the top of said ridge S.36 W.10 poles, S.76 W.6½ poles, N. 70½ W.16½ poles, S.88½ W.25½ poles, N.50 W.25¾ poles, N.38 W.10 poles, N.56 E.6½ poles, N.78 E. 27 poles, N.33 E. 7½ poles to a white oak, N.69.E.12½ poles, S.68 E.8¾ poles, N. 79½ E.10 poles, S.73½ E.26 poles, thence leaving the top of ridge N.20¼ E.24½ poles to a white oak, poplar, birch and sassafras on the west bank of Puckets' creek, thence up same as it meanders N.74 W. 8 poles, N.63¼ W.23½ poles, N.50½ W.17 poles, N.38½ W.13¼ poles to a coal bank in said branch, N.52¼ W.5 poles, N.44 W. 4½ poles, to a beech, thence leaving said creek and with a marked line up a haul road, N.58¼ W.5½ poles, N.48½ W.12½ poles, N.63½ W. 5 poles, N. 48½ W.13½ poles, N.58 W. 10 poles, N.51¾ W.14½ poles, N. 49 W.9½ poles, N.52½ W.19¾ poles to a maple on the west side of said creek, N.38¾ W.141 poles to a salt-petre cave, N.17 W.40 poles to the top of the Little Black mountain, and with the top of same, S.78 W.27 poles, S. 52½ W.19½ poles to a chestnut on top of said mountain, S.15 W.19 poles, S.22 W.27 poles to a hickory, black and large rock, S.12¼ E.13 poles, S.10 W.14¼ poles, S.4¼ E.16¼ poles, S.36 W.4¼ poles, S.7 W. 29 poles to a water oak marked with old marks, thence leaving the top of said mountain with old marked line S.69¾ E.76 poles to two chestnut oaks on top of a spur, S.53½ W.49 poles to pointers, chestnut and chestnut oak, thence with original west line S.38 E.214 poles to a stake on the southwest side of a branch on the North edge of Loyd Garrett's garden, S.67 E.30 polesto a black gum, S.28 E.25 poles to a white oak stump near a grave yard, S.16 E.22 poles to a beech, dogwood and maple at the head of Ely's creek, and with the same as it meanders S.5½ W.14½ poles, S.15½ W.28 poles, S.39 W.18¾ poles, S.18½ W.15 poles, S.27 W.25 poles, S.10¼ E.19½ poles, S.31¾ E. 16¼ poles, S.23½ E.22¾ poles, S.38 E.14 poles, S.3¾ E.8 poles, S.36 E.22 poles, S.28¾ E.11¼ poles to a stake in forks of Elys creek, thence

leaving original line N.82 E.145 poles to a chestnut oak and stake on top of a ridge and with same S.14½ E.5 poles, S.12 W.12¾ poles, S.17½ E.14¼ poles, S.42½ E.7¼ poles, S.68 E.4½ poles to a maple, N. 77¼ E.7 poles to a stake on the Wynn line and with same N.23 E. 28 poles to pointers, white oak on the North and poplar on the south side of Lick branch) N.76¾ E.152 poles to a cumumber, thence with original line N.40½ W.118 poles, N.39 E.96 poles to the top of a spur or ridge, and with the same N.30½ W.9½ poles, N.43 W.14¾ poles to the beginning, and containing eight hundred and twenty-four acres.

The second or last of said tracts of land being a portion of the Mourning Andes dower land and was conveyed to said Wm.Pennington by John Z.Ely et al and is bounded as follows, to-wit: Beginning at two white oaks on the west side of Puckett's creek, thence with original line S.50 W.50 poles to pointers, S.22½ E.140 poles to a stake and pointers in a hollow, thence leaving original line, N.57¾ E.11 poles to a beech on the west bank of public road, S.86½ E.7 poles to a buckeye on the west bank of Straight creek, S.64 E.18 poles to a black walnut N.27½ E.34 poles to a black oak on the north side of said creek, a corner to Salem church lot, thence with the meanders of said creek N.60 E.10 poles, East 12 poles, opposite a black walnut, thence leaving said creekN.28¾ E.64 poles to a stake and pointers on top of a large rock which is on top of Lone Mountain, thence nearly with the top of same N.51¼ E.60½ poles, N.37 E.25 poles to a black gum, N.20 E. 42½ poles to a stake near an old marked corner, red oak, two black oaks and a sourwood, N. 24 W. 8¼ poles to a white oak, N. 16¼ W. 26½ poles to a burnt chestnut, N.18 E. 20½ poles to a stake, N.27½ E. 20 poles to two maples and black gum (John L.Pennington's corner), thence leaving the top of said mountain S.71 W.103 poles to a red oak and white oak on the top of a spur or ridge, thence with the top thereof N.38½ W.20½ poles, N.51¼ W.37¾ poles, N.22½ W.7½ poles to four sourwoods, a hickory and cucumber on a point, S.89 W. 6½ poles, S.78½ W. 19 poles to a black gum on a line of the McCredie survey and with the same S.31 degrees 5 minutes E.63 poles to a poplar, S.17 W.21 poles to the beginning, and containing one hundred

and seventy acres.

To have and to hold said two tracts or parcels of land subject to the rights of said Stratton therein unto said Mallett and his heirs forever.

And the said Wm.Pennington and Barbary J.his wife, for themselves their heirs and assigns, covenant with the said Mallett, his heirs and assigns, that they are seized in fee simple of said two tracts of land, that they have lawful right and power to convey the same in fee simple to said Mallett, that the said Mallett, his heirs and assigns, shall have quiet and peaceable possession of said lands with their appurtenances forever, that the said two tracts of land are free from all incumbrances and charges whatsoever, except the rights of said Stratton therein; that if they ever desire to sell the remainder of the Day tract of land they now own they will first offer the same to said Mallett before selling to any other person, and if said Mallett will give as much per acre as any person, then they will let said Mallett have the same; that they will not keep or maintain any grocery, that is, liquors, no sell or make any intoxicating liquors no permit the same to be done by another on any of their lands adjoining the two tracts herein conveyed, that they will execute such further assurances of title as may be necessary to make sure and complete the title of said second party, and that they will forever warrant generally the title to said lands.

Said Wm.Pennington reserves his vendor's lien on said lands until the whole of said deferred payments are made.

Witness the following signatures and seals the day and year first above written.

William Pennington, (Seal.)

Barbara J.Pennington, (Seal.)

Virginia, Lee County, to-wit:

I, E.W.Pennington, a Notary Public for the county aforesaid and State of Virginia, do certify that Wm.Pennington and Barbary J.Pennington, his wife, whose names are signed to the writing above bearing date on the 10th day of October, 1891, have acknowledged the same

before me in my county aforesaid.

Given under my hand this the 28th day of October, 1891.

E. W. Pennington, J.P.

Virginia, Lee County, to-wit:

In the office of the clerk of the said county the 5th day of April, I892, this deed was presented and together with the certificate thereto annexed admitted to record.

Teste John R. Gibson Clerk.

A copy, Teste: B. M. Morgan, clerk.

Lee County Deed Book No.27, page 448 &c.

A. W. Pennington
v } In Chy.
Pocket Company.

"Exhibit No. 1"

Chas E. Mallett
From } Deed
Wm Pennington et ux.

Clerk $1.25

L. T. HYATT,
ATTORNEY AT LAW,
JONESVILLE, VIRGINIA.

CIRCUIT COURT for LEE COUNTY,VA.

WILLIAM PENNINGTON v. CHAS. E. MALLETT et als.

------- In Chancery.---------

-- TRANSCRIPT of RECORD.--

Virginia:

Pleas before the circuit court for the county of Lee, at the court-house thereof, on Tuesday, the 8th day of July, 1902:

Be it remembered that heretofore, to-wit: at rules held in the clerk's office of the said court on Monday, the _____ day of February, 1897, came William Pennington, by his counsel, and filed his bill in chancery against Chas.E.Mallett and the Pocket Company, a corporation, which bill was ~~in the words and figures~~ following, to-wit:

Bill.

To the Hon.W.T.Miller,Judge of the Circuit Court for Lee County:--

Humbly complaining, your orator, Wm.Pennington, a citizen of Lee County, Virginia, would respectfully represent unto your Honor That on the tenth day of October,1891, he sold, conveyed and delivered to one Chas.E.Mallett, tow certain tracts or parcels of land lying and being in Lee County, in the Pocket Country,- one ~~parcel~~ of the said tracts containing 824 acres at the price of $15.00 per acre, and the other containing 170 acres at the price of $25.00 per acre, or the sum of $16610.00 for both tracts; that by the terms of sale which is espressed in the deed made, said Mallett paid down to your orator on the purchase price of said land the sum of $500.00, and was to pay on Jan.1st,1892, $500.00 more, and the residue with interest from the 10th day of Oct.,1891, (the interest, payable semi-annyally, beginning with April 10th,1892) payable on or before Oct.,

10th,1896; that said Mallett or his assignees paid to your orator the $500.00 to be paid on Jam the 1st,1892, and also the first two years interest.

Your orator will further show unto your honor, that said Mallett by deed conveyed said lands to the Pocket Company, a corporation organized under the laws of Kentucky; that $15510.00 of the purchase price of said lands with interest thereon from the 10th day of Oct; 1893, is due and unpaid to your orator; that when your orator conveyed said lands to said Mallett, on the face of the deed of conveyance he reserved a lien upon the lands so conveyed to secure the unpaid purchase money and interest to acrue thereon. A copy of which deed is here filed, marked "Deed " and prayed to be taken as apart of this bill of complaint.

Your orator will further show unto your honor, that the said Chas. E. Mallett is a non-resident of this state ; that the said Pocket Company is a corporation created by the laws of the state of Kentucky but has no officer or agent in this State or county on whom process may be served.

The premises considered, your orator is advised that he has vendor's lien and he here avers theonly lien upon said lands de--scribed in said copy of said deed; that his lien is capable only of being enforced in a court of Equity; his prayer there fore is that your honor take cozni zance o fhis cause of complaint , that he be declared to have a vendor's lien upon said lands for the amount of the unpaid purchase money due thereon with its interest;; that said lands , or enough thereof to satisfy said lien and the costs of this suit to be directed to be sold by your honor; that said Chas. E. Mallett and the said Pocket Company be made parties dedfendant to this bill of complaint, and that they be required to answer the same, but they need not do so on oath, that being expressly waived, that an order of publication be duly made against said defendants as the law requires in such cases.

And that on a final hearing of the cause all general,

and special relief be granted your orator that the nature of his cause may require to have justice metted out to him. May Process issue etc. And your orator will ever pray etc.

E. W. Pennington Atty for pl.

Virginia, Lee County, to-wit:

This day Jas.D.Pennington personally appeared before me, a notary public in and for the County and State aforesaid, and made oath that Chas.E.Mallett and the Pocket Company against whom William Pennington is about to bring suit in the circuit court for Lee County, on the chancery side thereof, are non-residents of this Commonwealth.

Given under my hand this the 26 day of June,1896.

A. G. Hyatt, N. P.

Exhibit Marked "Deed" with said Bill.

This Deed made this the 10th day of October A.D.1891 by Wm. Pennington and Barbary J. His wife Parties of the first part, to Chas.E.Mallett of Brooklyn New York party of the second part. Witnesseth that for and in consideration of the sum of fifteen dollars per acre for the tract of land hereinafter first described and twenty five dollars per acre for the tract of land hereinafter last described five hundred dollars in hand paid the receipt of which is hereby acknowledged, five hundred dollars due and payable January 1st 1892, and the residue with legal interest thereon from this date, payable on or before Oct.I0th 1896, and the accrueing interest on said last deferred payment, due and payable semi-annually beginning with April 10th I892, and so on, until said last deferred payment is fully paid, the said parties of the first part do and each of them doth hereby give, grant, bargain, sell, convey and deliver unto said Mallett all of two certain tracts or parcels of land lying and being in Lee County, in the Pocket Country except such of the same as was

on the 23rd day of Sept.1887, conveyed to F.A.Stratton by said parties of the first part. The first of which tracts of land being the same land that was conveyed by D.S.Dickinson, Benj.D.Martin and M.B.D.Lane Comr.&c. to said Wm.Pennington and bounded as follows, to-wit: Beginning at a small red oak on top of the dividing ridge between Big branch and Coal bank branch, thence with top of said ridge N 24½ W 11½ poles to a chestnut N 3½ E 31¾ poles to a small red oak bush N 21 W 28 poles N 12½ E. 16¾ poles N 4 W 10 poles N 22 E 19¼ poles, N 23½ W 17¼ poles N 49½ W 30½ poles to a hickory on the top of said ridge, thence leaving the top of said ridge and with the top of another spur or ridge N 34 W 4¾ poles to a black gum N 89¼ W 20 poles to a black gum and white oak S 47 W 10 poles to a red oak S 25 W 11¾ poles to a chestnut S 7½ W 22 poles to a double chestnut S 3¼ W 40 poles to a red oak, thence leaving the top of said ridge S 81 W 33 poles to a poplar on the west side of Coal Bank branch, N 79¼ W 20 poles to a beech on the west side of Puckets Creek S 62 W 22 poles to a dogwood on a ridge N 83½ W 15 poles to a maple chestnut and spotted oak on top of a ridge, thence with the top thereof N 41½ W 5¾ poles N 47 W 12½ poles N 39 W 8 poles. N 30¼ W. 11¼ poles to a chestnut on the top of said ridge N 69½ W 13 poles to a dead oak S 84½ W 6½ poles to a maple S 48½ W 12¼ poles to a chestnut oak on top of a ridge N 70¾ W 25¾ to a double chestnut (John L. Pennington's corner) thence continuing with the top of said ridge S 36 W 10 poles S 76 W 6½ poles N 70½ W 16½ poles S 88½ ~~W 25½ poles~~ N 50 W 25¾ poles N 38 W 10 poles N 56 E ~~2X~~ 6½ poles N 78 E 27 poles N 33E7½ poles to a white oak N 69 E 12½ poles S 68 E 8¾ poles N 79½ E 10 poles S 73½ E 26 poles thence leaving the top of ridge N 20¼ E. 24½ poles to a white oak, poplar, birch and sassafras on the west bank of Pucket's creek, thence up same as it meanders N.74 W 8 poles N 63¼ W 23½ poles N 50½ W 17 poles N 38½ W 13¼ poles to a coal bank in said branch N 52¼ W 5 poles N 44 W 4½ poles to a beech, thence leaving said creek and with a marked line up a haul road N 58¼ W 5½

poles N 48½ W 12½ poles N 63½ W 5 poles N 48½ W 13½poles N 58 W 10 poles N 51¾ W 14½ poles N 49 W 9½ poles N 52½ W 19¾ poles to a maple on the west side of said creek N 38¾ W 141 poles to a saltpetre cave N 17 W 40 poles to the top of the Little Black Mountain and with the top of same S 78 W 27 poles S 52½ W 19½ poles to a chestnut on top of said mountain S 15 W 19 poles S 22 W 27 poles to a hickory, black and large roak S 12¼ E 13 poles S 10 W 14¼ poles S 4¼ E 16¼ poles S 36 W 4¼ poles S 7 W 29 poles to a water oak marked with old marks, thence laving the top of said mountain with old marked line S 69¾ E 87 poles to two chestnut oaks on the top of a spur S 53½ W 49 poles to pointers, chestnut and chestnut oak, thence with original west line S 38 E 214 poles to a ~~stke~~ stake on the southwest side of a branch on the north edge of Loyd Garrett's garden S 67 E 30 poles to a black gum S 28 E 25 poles to a white oak stump near a grave yard S 16 E 22 poles to a beech, dogwood and maple at the head of Ely's creek, and with the same as it meanders S 5½ W 14½ poles S 15½ W 28 poles S 39 W 18¾poles S 18½ W 15 poles S 27 W 25 poles S 10¼ E 19½ poles S 31¾ E 16¼ poles S 23½ E 22¾ poles S 38 E 14 poles S 33¾ E 8 poles S 36 E 22 poles S 28¾ E 11¼ poles to a stake in fork of Elys creek, thence leaving original line N 82 E 145 poles to a chestnut oak and stake on top of a ridge and with same S 14½ E 5 poles S 12 W 12¾ poles S 17½ E 14¼ poles S 42½ E 7¼ poles S 68 E 4½ to a maple N 77¼ E 7 poles to a stake on the Wynn line and with same N 23 E 28 poles to pointers, white oak on the north and poplar on the south side of Lick branch) N 76¾ E 152 poles to a cucumber, ~~thence~~ with original line N 40½ W 118 poles N 39 E 96 poles to the top of a spur or ridge and with the same N. 30½ W 9½ poles N 43 W 14¾ poles to the beginning and containing eight hundred and twenty-four acres.

The second or last of said tracts of land being a portion of the Mourning Andes dower lands and was conveyed to said Wm.Pennington by John Z.Ely et al and is bounded as follows, to-wit: Beginning at two white oaks on the west side of Puckets creek, thence with original line S 50 poles W 50 poles to pointers S.22½ E 140 poles to a

stake and pointers in a hollow, thence leaving original line N 57¾ E 11 poles to a beech on the west bank of public road S 86½ E 7 poles to a buckeye on the west bank of Straight creek S 64 E 18 poles to a black walnut N 27½ E 34 poles to a black oak on the north side of said creek a corner to Solomon Church lot, thence with the meanders of said creek N 60 E 10 poles E 12 poles opposite a black walnut thence leaving said creek N 28¾ E 64 poles to a stake and pointers on top of a large rock which is on top of a Lone mountain thence nearly with the top of same N 51¼ E 60½ poles N 37 E 25 poles to a black gum N 20 E 42½ poles to a stake near an old marked corner red oak two black oaks and sour wood N 24 W 8¼ poles to a white oak N 16¼ W 26½ poles to a burnt chestnut B N 18 E 20 poles to a stake N 27½ E 20 poles to two maples and black gum John L Pennington's corner) thence leaving the top of said mountain S 71 W 103 poles to a red oak and white oak on the top of a spur or ridge thence with the top thereof N 38½ W 20½ poles N 51¼ W 37¾ poles N 22½ W 7½ poles to four sourwoods a hickory and cucumber on a point S 89 W 6½ poles S 78½ W 19 poles to a black gum on a line of the McCrady survey and with same S 31 degrees and five minutes E 63 poles to a poplar S 17 W 21 poles to the beginning. And containing one hundred and seventy acres.

To have and to hold said two tracts or parcels of land subject to the rights of the said Stratton therein unto said Mallett and his heirs forever.

And the said William Pennington and Barbery J. his wife, for themselves, their heirs and assigns covenant with the said mallett, his heirs, and assigns that they are seized in fee simple of said two tracts of land, that they have lawful right and power to convey the same in fee simple to said Mallett, his heirs, and assigns, shall have quiet and peaceable possession of said lands with their appurtenances forever that the said two tracts of landare free from all incumbrances and charges whatsoever, except the rights of said Stratton therein; that if they ever desire to sell the remainder of the Day

tract of land they now own they will first offer the same to said Mallett before selling to any otherperson, and if said Mallett will give as much per acre as any person, then they will let said Mallett have the same; that they will not keep or maintain any grocery, that is liquors, nor sell or make any intoxicating liquors no permit the same to be done by another on any of their lands adjoining the two tracts herein conveyed, that they will execute such further assuraces of title as may be necessary to make sure and complete the title of said second party, and that they will forever warrant generally the title to said lands.

Said Wm.Pennington reserves his vendors lein on said lands until the whole of the said deferred payments are made. Witness the following signatures the day and years first above written.

William Pennington Seal.

Barbara J. Pennington Seal.

Virginia Lee County, to-wit:-

I, E.W.Pennington, a notary Public for the county aforesaid, in the state of Virginia, do certify that Wm.Pennington and Barbara J. Pennington, his wife, whose names are signed to the writing above bearing date on the 10th day of October,1891, have acknowledged the same before me in my county aforesaid. Given under my hand this the 28th day of October,1891.

E. W. Pennington, N. P.

Virginia, Lee County, to-wit:

In the office of the clerk of the said county, the 5th day of April, 1892, this deed was presented, together with the certificate thereto annexed was admitted to record.

Teste: J. R. Gibson, clerk.

A Copy Teste:

_____, Clerk.

The subpoena in chancery issued against the defendants in said

bill, and the return thereon, are in the words and figures following, to-wit:

Subpoena in Chancery.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee,--Greeting:

We Command you, That you summon Charles E.Mallett and the Pocket Coal Company a corporation organized under the laws of the State of Kentucky doing business in this State. to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said Court on the 3rd Monday in October,1896, to answer a bill in chancery, exhibited against them in our said court by Wm. Pennington. And have then there this writ. Witness, A.B.MUNSEY, Clerk of our said Court, at the court-house, the 10th day of October, 1896, and in the 121st year of the Commonwealth.

A. B. Munsey, Clerk.

Return on said Subpoena.

Not executed, not found, this Oct I9-1896.

J. M. Weston D.S. for W.P.Weston, S.L.C.

Whereupon another subpoena was issued, which, with the return thereon, are in the words and figures followsing, to-wit:

Alias Subpoena in Chancery.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

We again command you, That you summon Chas.E.Mallett and the Pocket Coal Company a corporation organized under the State of Kentucky and doing business in the State of Virginia to appear at the

Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held for the said court on the 1st Monday in February, 1897, to answer a bill in Chancery, exhibited against them in our said court by Wm.Pennington. And have then there this writ. Witness, A.B.MUNSEY,Clerk of our said court, at the court-house, the 18th day of December 1896, and in the 121st your of the Commonwealth.

A. B. Munsey, clerk.

Return on said Alias Subpoena.

February 1st 1897. Not executed, not found. Charles E.Mallett is not a resident of this State.

W. P. Weston, S. L. C.

And at another day to-wit: on the 18th day of December, 1896, the said complainant, William Pennington, filed in the clerk's office of the said court an affidavit for order of publication, which is in the words and figures following, to-wit

---

Affidavit for Order of Publication.

In the Clerk's Office of the Circuit Court of the County of Lee:

William Pennington, Plaintiff.

vs.

Charles E.Mallett and Pocket Coal Company, a corporation, Defendants.

This day R.L.Pennington personally appeared before me, A.B.Munsey, Clerk of the said court and being duly sworn, made oath that the Pocket Coal Co. is a foreign Corporation, and that there is no agent or other person upon which process can be served within the said County, & which is one of the defendants in the said cause.

Given under my hand has clerk of the said court, this 18th day of December, 1896. A. B. Munsey, clerk.

Whereupon the clerk of said court made an order of publication which, with the certificate of the said clerk thereon, and the certificate of publication thereof, is in the words and figures following., to-wit:

Order of Publication.

In the Clerk's Office of the Circuit Court of the County of Lee on the 23rd day of December, 1896.

William Pennington Plaintiff.

vs. In Chancery.

Charles E.Mallett and the Pocket Coal Company, a corporation, Defendants.

The object of this suit is to enforce the plaintiffs vendors lien against the land sold by him to Chas.E.Mallett. And an affidavit having been made and filed that the defendant Chas.E.Mallett is not a resident of the State of Virginia, it is ordered that he do appear here within fifteen days after due publication hereof, and do what may be necessary to protect his interest in this suit. And it is further ordered that a copy hereof be published once a week for four weeks in the Southwest Virginian and that a copy be posted at the front door of the court-house of this county on the first day of the next term of the county court.

A. B. Munsey, Clerk.

Pennington Bros., p'q'

Clerk's Certificate.

Virginia, Lee County, to-wit:

I, A.B.Munsey, Clerk of the circuit court for Lee County, do hereby certify that I posted a copy of the within order of publication at the front door of the court-house of said county on the first day of the January Term of the County Court, 1897.

Given under my hand this 18th day of January, 1897.

A. B. Munsey, clerk.

Editor's Certificate.

I, A.M.Goins, editor of the Southwest Virginian, a weekly newspaper published at Jonesville, Lee county, Va., do hereby certify that the annexed notice was published in said paper once a week for four successive weeks, commencing on the 24th day of Dec. 1896.

A. M. Goins, Per Eads, Editor.

Note.--The foregoing editor's certificate is attached to a printed copy of the above order of publication, apparently a clipping from a newspaper.

A B Munsey, Clerk.

Publication of Process.

Virginia,

In the Clerk's Office of the Circuit Court of Lee County on the 18th day of December, 1896.

William Pennington Plaintiff.

against

Chas.E.Mallett and the Pocket Coal Company, a Corporation organized under the laws of Kentucky and doing business in the State of Virginia, Dfts.

IN CHANCERY.

An affidavit having been made and filed that the Defendant, the Pocket Coal Company is a foreign Corporation and has no agent or other person in the said county upon whom personal service can be had, It is ordered that a copy of the process in the said cause be published once a week for four successive weeks in the Southwest Virginian, which said process is in the following words and figures to-wit:

"The Commonwealth of Virginia.

To the Sheriff of the County of Lee--Greeting:

We again command you that you summon Chas.E.Mallett and Pocket Coal Company, a corporation organized under the laws of the State of Kentucky, and doing business in this State, to appear at the Clerk's Office of the Circuit Court of the County of Lee at the rules to be held for the said court on the 1st Monday in February, 1897, to answer a bill in Chancery exhibited against them in our said Court by Wm'Pennington. And have then there this writ. Witness, A.B.Munsey, Clerk of our said Court at the court-house on the 18th day of December, 1896, and in the 121st year of the Commonwealth."

A. B. Munsey, Clerk.

A copy, Teste: A.B.MUNSEY, Clerk.

Pennington Bros., p.q. 4t 12 24 96.

Editor's Certificate Attached to Above.

I, A. M. Goins, editor of the Southwest Virginian, a weekly newspaper published at Jonesville, Lee County, Va., do hereby certify that the annexed notice was published in said paper once a week for four successive weeks, commencing on the 24th day of Dec.,1896.

A. M. Goins, Per Eads, Editor.

And the defendants having been proceeded against in the manner required by law, and not appearing, on motion of the plaintiff's counsel, it is ordered that unless they do appear here at rules to be held on the third Monday in February, 1897, and answer, demur, or plead to the said bill, the same will be taken for confessed and the court will decree accordingly.

At which day to-wit: at rules held in the clerk's office of the said court on Monday, the ____ day of February,1896, the defendants still failing to appear to answer, plead or demur to the said bill, it is ordered that the same be taken for confessed against them, and on motion of the plaintiff's counsel, the cause is set for hearing

at the next term.

And at another day, to-wit:

Decree No. 1.

Virginia,

At a circuit court continued and held for Lee County, at the court-house thereof, on _____, the 4th day of March, 1897.

William Pennington, Complt.

vs In Chancery.

Chas.E.Mallett et al. Defts.

This cause came on this day to be heard upon the bill of the complainant and exhibits filed therewith, the petition of Cowan, McClung & Co. setting out that they were interested in the money due said Complaiant from said Mallett by reason of an assignment made to them on May 3rd, 1895, and they praying to be made parties to said bill, leave was granted to said complainant to amend his bill making said Cowan,McClung & Co. parties thereto, which by consent of counsel for plaintiff and counsel for Cowan, McClung & Co. was done; and thereupon said Cowan, McClung & Co. filed their answer to said bill to which answer the complainant replied generally. And from the pleadings in said cause, it appears that the defendant Chas.E.Mallett is a non-resident of this State and that the Pocket Company is a foreign corporation and it has no officer or agent within the State on whom process could have been served, and it further appearing to the court that an order of publication has been made, posted and published in a newspaper published in Lee County Virginia for four successive weeks prior to 15 days before the first day of this term of the court, and that a copy of the process in this cause against the said Pocket Company has been made, posted and published in a newspaper published in the town of Jonesville, Lee Co.,Va., for four successive weeks prior to 15 days before the first day of this term of the court, and said Mallett and said Pocket Company failing to

appear, plead or demur, on motion of said complainant, said bill with its amendments are taken for confessed as to them. On consideration of all which and for reasons appearing to the court it is adjudged ordered and decreed that said Cowan, McClung & Co., as assignee of said complainant, have a first lien on the lands in the bill and proceedings mentioned for the sum of $1974.46, due May 4th, 1895, subject to a credit of $110.22 Dec.21st,1895, the sum of $241.66 due August 7th 1895, and the sum of $301.84 due Oct.7th 1895, and that Wm.Pennington, said complainant has a second lien on said land for the sum of $14585.70, with interest thereon from the 10th day of Oct.1895, till paid; and it is further adjudged, ordered and decreeed that said Cowan, McClung & Co., as assignees of said complainant, recover from said Chas.E.Mallett the sum of Two Thousand five hundred and seventeen dollars and ninty-six cents, with legal interest on $1974.46, a part thereof from May 4th,1895, till paid, subject to a credit of $110.22 as of Dec.21st,1895, with legal interest on $241.66 another part thereof, from August 7th, 1895, till paid, and with legal interest on $301.84, the residue of said sum of $2517.96, from October 7th, 1895, till paid; and that said complainant recover from said Chas.E.Mallett the sum of $14585.70, with interest thereon from the 10th day of October, 1895, till paid and the costs of this suit; and if said sums of money be not paid within thirty days from this date, then E.W.Pennington, who is hereby appointed a special for the purpose will after advertising the time, terms and place of sale by written or printed notices posted at the front door of the court-house of this county, at the post-office in the town of Pennington Gap, in the neighborhood of said lands and at such other places as he may deem proper, for 30 days, expose said lands for sale or enough thereof to pay said sum of money, to the highest and best bidder, at the front door of the court-house of this county, on some court day, on a credit of one, two and three years time, except a sum sufficient to pay the costs of suit and commissions of sale which he will require to be paid down. And for the deferred payments he

will take bonds payable to himself as commissioner, bearing interest from date of sale and with good personal security. And he will report his action to court. But before entering upon the duties hereunder, said Pennington will execute bond before the clerk of this court in the penalty of $10000.00, conditioned to faithfully ~~to~~ discharge his duties as such commissioner and to account for all moneys which may come into his hands by virtue of his being commissioner in this cause. And this cause is continued.

The petition of Cowan, McClung & Co. mentioned in the above decree, is in the words and figures following, to-wit:

Petition of Cowan, McClung & Co.

To the Hon.W.T.Miller,Judge of the Circuit Court for Lee Co.:

Your petitioners, J.D.Cowan, C.J.McClung, Mathew McClung, R.M. Rhea and Jacob L.Thomas, merchants and partners in trade under the firm name of Cowan, McClung and Co., humbly ~~complaining~~ praying, would respectfully represent and show unto your honor:--

That William Pennington on the 10th day of October, 1896, instituted in your honor's court a certain suit in chancery against Chas.E.Mallett and the Pocket Coal Company, a Corporation, the object of which, as is shown by the said Pennington's bill, is to have enforced a certain vendor's lien which he had retain on certain land, as set out in the bill, which he had sold to the said Mallett and which the said Mallett had sold to the said Pocket ~~Company~~ Coal Company: now your petitioners will represent and show unto your honor that the said Pennington being indebted to them in the large sum of $1874.46, with interest from the Third day of May,1895, and being so indebted to them as aforesaid the said Pennington together with his wife, Barbara J.Pennington, to secure the said debt as aforesaid, and any other advancements which your said petioners might make to the said Pennington within the next four years, executed to E.W.Pen-

nington, Trustee, a deed of trust upon the land which the said Pennington sold the said Mallett or upo n the purchase money still due by the said Mallett upon the said land, and on other land which your petioners deems unnecessary to mention here. Your petioners here file a copy of the said deed of trust, and pray that the same may be taken as a part of this petition. And your petitioners will further represent and show unto your honor that the said sum of $1974.46, secured as aforesaid has not ~~been~~ as yet been paid, except the sum of $110.22 paid Dec. 21,1895. Andfurther your petitioners will show unto your honor, that by reason of feeling themselves secure because of the said deed of trust, on June the 7th,1895, your petitioners advanced the said Pennington another large amount $543.50, $241.66 of which became due and payable 60 days from the date last aforesaid, and $301.84 of which became due and payable 4 months from the date last aforesaid. And your petitioners will further show unto your honor that none of the said sums of money last aforesaid have been paid, but are still due and owing. Copies of the notes evidencing the said debts as aforesaid are here filed and prayed to be taken as part of this petition.

The premises considered your petitioners are advised that by reason of the said deed of trust as aforesaid they have a lien upon the purchase price due by the said Mallett to the said Pennington, to the extent of the said debt as aforesaid, and having a lien by reason thereof, they are advised that they are interested in the subject matter of this suit that they have a right and ought to be made parties to the said suit; and therefore pray that they be made parties to the said suit, that they be allowed to file this petition, that the said Pennington be required to answer the same, that if a sale is made according to the prayer of the bill, that out of the first proceeds of the said sale enough be applied to pay your petitioner said debt, and may all other further and general relief be granted your petitioners that the nature of their cause may demand, and good conscience dictate. And they will ever pray &c.

Rob't L'Pennington

Atty for Cowan,McClung and Co.

Deed filed with said Petition.

This deed made and into this the 3rd day of May,1895, by and between William Pennington and Barbary J.Pennington, parties of the first part E.W.Pennington trustee, party of the secon part, and all of Lee County Va.

Whereas the said William Pennington is justly indebted to Cowan McClung & Co. of Knoxville Tennessee, in the just and full sum of (1974.46) nineteen hundred and seventy four & 46/100 dollars due and payable as follows, to-wit: One day after this date which sum of money is evidenced by the note of the said William Pennington of even date with this deed, and which sum of money the said William Penningtonwaiving the benefit of the homestead law hereby promises and binds himself to pay. And the said William Pennington being engaged in the mercantile business and being desirous of obtaining from the said Cowan McClung and Company further credit, and he being willing and desirous of securing to the said Cowan,McClung and Company the payment of the said sums of money and also the any sum or sums of money which may hereafter become due to them for any goods, wares and merchandise or money which they may sell, or let the said William have in the next four years, They the said William Pennington and Barbary J.Pennington, his wife, do and each of them doth hereby give, grant, bargain and sell and convey unto the said E.W.Pennington, trustee etc., the following tracts described of land lying and being in Lee Co.Va. in the "Pocket" country bounded as follows, to-wit: The first of which tracts of land is bounded as follows, to-wit:--Beginning on the sothern corner of land known as the Mallett, thence S.26 E 50 or 60 poles to the white oaks on the steep hill side near the top of a hill, S. 7½ E.28 poles to a white oak stump in Robert Stapleton's lot near Stone creek S.54 E crossing the said creek, 22 poles to 3 spruce

pines on the north side of Stone mountain, thence N 39 E.52 poles to two maples and a beech on the old McCreedie line, and with the said line S 39½ E about 275 poles to the old Preston line, thence eastward with the Preston line agreed upon between W.M.Pennington and the said William Pennington, thence with said agreed line, N.23½ W. ____ poles to the top of the stone mountain to a maple, thence with the top of said mountain N. 81 E. 11 poles to a stooping chestnut oak thence N. 65 E. 104 poles to a burntsided chestnut and gum, ~~thence~~ thence with to the top of the said mountain to the Hanging rock, thence to a large rock in the middle of north fork of Powel's river, thence to the said mountain eastward to its top again to A.N.Pennington's corner east of Becklin's Gap, thence with said A.N. & J.D.Pennington's lines westwardly to the top of Fork ridge to a birch, thence with the top of said ridge to the mouth of Straight creek, thence with J.D. Pennington's line to the top of Lone Mountain to said Mallett's line, thence with the said Mallett's line to the beginning and supposed to contain five hundred acres more or less.

The second of said tracts is the same land which was on the 10th day of October, 1891, by the said William Pennington and wife conveyed to the said Chas.E.Mallett and which deed is recorded in the County Court Clerk's Office of Lee County, and to which refference is here for a more particular description of this land and is supposed to be 994 acres. This last tract of land was on the day aforesaid conveyed to the said Mallett in consideration of $15.00 per acre for 824 acres of the same, and $25.00 per acre for 170 acres of the same, on time, and the said Mallett has not paid for the same and has left the country, and the report is that he has abandoned his purchase; but in the event that he has not abandoned his purchase and there being unpaid about $17000.00 which sum of money is yet due to the said William Pennington, then in that event, the said William doth hereby assign and transfer to the said E.W.Pennington the said debt due on the said land.

In Trust, nevertheless, and for the purposes and uses following,

and none other, namely: That the said William Pennington is suffered to remain in possession of the said lands, until default be made in the payment of the said sums of money due and to become; and when the said William Pennington shall make default in the payment of the said sums of money now due or may hereafter become due to the said Cowan, McClung and Company reason of any goods they may hereafter let the said William Pennington have on credit, then and in the event, on the request of the Cowan McClung & Company, their representatives or assigns, the said E.W.Pennington shall after advertising the time, terms and place of sail in three public places in Lee County, for thirty days for such as he may deem proper offer the said land or enough thereof to pay any sum of money that may then be to said Cowan McClung & Company, for sail to the highest bidder for cash in hand and out of the proceeds of such sail, he will pay off first all expenses attending the execution of this of trust and commission of sail, and second, he will pay to the said Cowan, McClung & Company whatever may be due them, or their assigns, and the remander he will pay to the said William Pennington, or his assigns. But if the said William Pennington make no default in the payment of the said sum of money, then this deed to be null and void, otherwise to remain in full force and virtue.

As to the said lands hereby conveyed, and the said debts hereby assigned, the said William Pennington doth hereby covenant to warrant generally title thereto.

Witnesseth the following signatures and seals the day and year first above written.

William M.Pennington, (Seal.)

Barbary J.Pennington (Seal.)

Virginia, Lee County, to-wit:

I, J.F.Burgan, a justice of the peace in and for the county and state aforesaid, do hereby certify that William M.Pennington and Barbary J.Pennington whose names are signed to the writing above, bearing the date of the 3rd day of May,1895, have acknowledged the

same before me in my county aforesaid.

Given under my hand this the 6th day of May, 1895.

J. F. Burgin, J.P.

Virginia, Lee Co.to-wit:

In the office of the clerk of the said county, the 7th day of May, 1895, this deed was presented and together with the cirtificate thereto annexed, admitted to record.

Teste: S. V. F. Richmond, clerk.

Copy of Notes filed with said Petition.

$1974.46. Pennington Gap, Va. May 3,1895.

One day after date I promise to pay to the order of Cowan McClung & Co. at their office in Knoxville, Tennessee, Nineteen Hundred & Seventy Four and 46/100 Dollars, for value received, and I hereby waive as to this debt the exemption of liability of property which I may be entitled to hold under the provisions of the Homestead Law.

Witness my hand.

Pennington Gap,P.O. Lee Co. Virginia State.

William Pennington.

Cr.Dec.21,95 $110.22.

$241.66. Pennington Gap, June 7,1895.

Sixty days after date I promise to pay to the order of Cowan, McClung and Co., at their office in Knoxville, Tenn., Two Hundred and Forty One and 66/100 Dollars, for value received, and I hereby waive as to this debt, the exemption of the property which I may be entitled to hold exempt under the provisions of the homestead Law.

Witness my hand.

Pennington Gap PO. Lee Co., Va.State.

William Pennington.

$301.84. Pennington Gap,Va. June 7,1895.

Four months after date I promise to pay to the order of Cowan, McClung and Co., at their office in Knoxville, Tenn., Three Hundred and One and 84/100 Dollars, for value received, and I hereby waive as to this debt, the exemption from liability of the property which I may be entiled to hold exempt under the provisions of the Homestead Law. Witness my hand,

Pennington Gap P.O. Lee Co., Va.State.

William Pennington.

The said Complainant's bill as amended, as stated in said decree, is in the words and figures following, to-wit:

Bill as Amended.

To the Hon.W.T.Miller,Judge of the Circuit Court for Lee County:--

Humbly complaining, your orator, Wm.Pennington, a citizen of Lee County, Virginia, would respectfully represent unto your Honor, That on the tenth day of October,1891, he sold, conveyed and delivered to one Chas.E.Mallett tow certain tracts or parcels of land lying and being in Lee County, in the Pocket Country,--one of the tracts containing 824 acres at the price of $15.00 per acre, and the other containing 170 acres at the price of $25.00 per acre, or the sum of $16610.00 for both tracts; that by the terms of sale, which is expressed in the deed made, said Mallett paid down to your orator on the purchase price of said land the sum of $500.00, and was to pay on Jan.1st., 1892, $500.00 more, and the residue with interest from the 10th day of Oct.,1891 (the interest payable semi-annually beginning withApril 10th,1892) payable on or before Oct.,10th,1896, that said Mallett or his assignee paid to your orator the $500.00 to be paid on Jan.Ist.,1892, and also the first two years interest.

Your orator will father show unto your honor, that said Mallett by deed conveyed said lands to the Pocket Company, a corporation organized under the laws of Kentucky; that $15510.00 of the purchase

price of said lands with interest thereon from the 10th day of Oct. 1893 is due and unpaid to your orator; that when your orator conveyed said lands to said Mallett, on the face of the deed of conveyance he reserved a lien upon the lands so conveyed to secure the unpaid purchase money and interest to accrue thereon. A copy of which deed is here filed, marked "Deed" and prayed to be taken as a part of this bill of complaint.

Your orator will further show unto your honor that on May 3rd, 1895, he assigned to Cowan,McClung & Co., enough of said debt to sesure them in the payment of $1974.46 on that day due them, and further sum which he might become within four years thereafter due them; that on June 7th, 1895, said Cowan,McClung & Co.did furnish to your complainant goods, wares and merchandise &c. amounting to the sum of $543.50, $241.66 thereof due within sixty days from June 7th,1895, and the residue due or $310.84 in four months after June 7th,1895, and that only $110.22 on Dec.21st 1895 has been paid to said Cowan McClung & Co.

Your orator will further show unto your honor, that the said Chas.E.Mallett is a non-resident of this State; that the said Pocket Company is a corp ration created by the laws of the State of Kentucky but has no officer or agent within this State or County, on whom pro cess may be served.

The premises considered, your orator is advised that he has a vendor's lien and he here avers the only lien upon the lands described in said copy of said deed; that his lien is capable only of being enforced in a court of Equity; his prayer therefore is that your honor take cognizance of his said couse of complaint, that he be declared to have a vendor's lien upon said lands for the amount of the unpaid purchase money due thereon with its interest; that said lands, or enough thereof to satisfy said lien, and the costs of this suit be directed to be sold by your honor; that said Chas. E.Mallett and the said Pocket Company, J.D.Cowan, C.J.McClung, Mathew

McClung, R.M.Rhea and Jacob L.Thomas, doing business under the style and firm name of Cowan,McClung & Co., be made parties defendants to this bill of complaint, and that they be required to answer the same but they need not do so on oath, that being expressly waived, that an order of publication be duly made against said defendant as the law requires in such cases. And that on a final hearing of the cause all general and special relief be granted your orator that the nature of his cause may require to have justice ~~xxxx~~ metted out to him. May Process issue etc. And your orator will ever pray etc.

E. W. Pennington Atty for pl.

And at another day, to-wit: on the 24th day of May,1897, E.W. Pennington, Special Commissioner, filed his report in said cause, which is in the words and figures following, to wit:

Report of E.W.Pennington, Special Commr.

Wm.Pennington, Complt.

vs. In Chancery.

C.E.Mallette et al. Deft.

To the Hon.Wm.T.Miller, Judge of the Circuit Court for Lee County:--

Your undersigned, who was at the March term, 1897, of your honor's court appointed a commissioner in said cause to sell the lands mentioned in said cause, begs leave to report that after advertising the the time, terms and place of sale for more than 30 days by written notices, posted in the neighborhood of said lands, at the post-office in the town of Pennington Gap and at the court-house and at two other public places(a copy of which advertisement is here filed) he, on the 19th day of May, 1897, at the front door of the court-house of said county, (said day being a court-day) in the presence of a large crowd of people, offered said lands for sale at public ~~xxxxxx~~ outcry to the highest and best bidder. He first offered

separately the tracts known as the 170 acre and the tract known as the 824 acre tract, but got no bidders for the same. Then he offered the said two tracts for sale together and after considerable bidding and crying said two tracts were knocked down to Chas.D.Russell and Isaiah Pennington for the sum of $3000.00, who were the highest bidders on said two tracts of land. Your Comr. sold said land subject to previous conveyances made therein to one F.A.Stratton. Said purchasers paid down on costs & commmissions of sale ~~$~~ $109.00, and executed to me their three several bonds, bearing interest from date of sale for $963.67 each, with R.L.Evans, A.N.Pennington, John S.Burgan and Geo.W.Pennington as their sureties. Your Comr. was not satisfied as to the sufficiency of the security offered, and is not ~~xxxxxx~~ yet satisfied with the same, although the said purchasers have had their said sureties make affidavits of their worth over their debts and liabilities, which are here filed for the inspection of your honor, and from their face aggregate $5000.00 over and above debts and liabilities. The land sold to said purchasers is principally valuable for its poplar timber, and your commissioner understands from them that it is their intention to begin soon after confirmation of this sale to cut and remove the timber therefrom, which may be done before the first bond becomes due. So your commissioner thinks that unless other and better personal security be offered said sale should not be confirmed. If it is confirmed, your comr. begs that it be confirmed without holding him liable for the security offered The price offered your comr.thinks is all right, and probably as much as said land is worth, owing to the fact that it is mountain land, and the mineral right having long ago been conveyed to said Stratton. All which is respectfully submitted. This May 22nd,1897.

E. W. Pennington, Special Comr.

Advertisement mentioned in said Report.

L A N D S A L E !

Wm.Pennington, Complt.

vs. In Chancery.

Chas.E.Mallett et al., Defts.

To carry out the decree entered in the above styled pending cause, on the 4th day of March,1897, now in the Circuit Court of Lee County, I will proceed at the front door of the courthouse on the 17th day of May, 1897 and at public out-cry, to the highest bidder, to sell the following described property ~~xxxx~~, to-wit:

The 824 acre and the 170 acre tracts of land described in complainant's bill in exhibit "Deed", excepting therefrom such rights as have been heretofore conveyed to one F.A.Stratton. This land is finely timbered, or enough thereof to pay $17103.00 and the costs of this suit and the commissions of sale, upon the following terms, to-wit: Enough cash to pay costs and commissions, and the remainder in three equal installments due in one, two & three years from the date of sale. The purchaser will be required to execute bonds bearing interest from the date of sale with good personal security.

E. W. Pennington, Special Commissioner.

This 19th day of March, 1897.

Affidavits filed with said Report.

Va. Lee County, to-wit:

I, Geo.W.Pennington, a citizen of Lee County, do hereby swear that I am worth over my debts and liabilities and "Poor man's" law, from two to three Thousand dollars: and this consists of both personal and real estate, real estate in my own name: I have a deed to part of it from Elk.Pennington and a title bond from R.W.Orr for the other: I think my real estate worth about $2500.00.

Given under my hand this May 17th,1897.

G. W. Pennington.

The above statement sworn to before me, this May 17th,1897 by Geo.W.Pennington.

A. B. Munsey, C'C.

I R.L.Evans, a citizen of Lee County, do hereby swear that I am worth about fifteen hundred dollars. I have about 200 acres of land in my own name. My deed is recorded in the county court clerk's office of this county. This May 17th, 1897.

R. L. Evans.

I, J. S. Burgin, a citizen of this county, do hereby swear that I am worth about $500.00 above my debts and liabilities: this is mosttly in debts of people who owe me. This May 17th, 1897.

his

Witness: B. H. Sewell, J. S. X Burgin.

E. W. Pennington. mark

I, A. N. Pennington, a citizen of Lee county, do hereby swear that I am worth above my debts and liabilities about one thousand dollars and this is mostly in real estate. This May 17th, 1897.

A. N. Pennington.

The foregoing affidavits sworn to before me by Geo.W.Pennington R. L. Evans, J. S. Burgin and A. N. Pennington. This May 17th, 1897'

A. B. Munsey, Clerk.

Exception Endorsed on said Report.

The confirmation of the sale reported herein is objected to because the security offered is insufficient, they are men considerably involved & posess very little personal estate, the purchasers have sold the timber, & expect to proceed to cut the same, & because the Comr.desires to be released if the court should confirm, & he says the bonds are not good.

Robt.L.Pennington, Atty.for Cowan, McClung & Co.

And at another day, to-wit:

Decree No.2.

Virginia,

At a circuit court continued and held for Lee county, at the court-house thereof, on _____, the 12th day of June, 1897.

Wm.Pennington, Complt.

vs. In Chanceyr.

Chas.E.Mallett et al. Defts.

This cause came on this day to be heard upon the papers formerly read therein, and the report of sale made by Comr.E.W.Pennington to C.D.Russell and I.Pennington, which report was filed on May 24th, 1897, and the exceptions of Cowan, McClung & Co. to the confirmation of said sale and report: On consideration of all which and for reasons appearing to the court it is adjudged ordered and decreed that the exceptions of the said Cowan,McClung & Co. be and are overruled in so far as they object to the confirmation of said sale and report, And it is further adjudged, ordered and decreed that said sale be confirmed to said C.D.Russell and I.Pennington, but they, their heirs or assigns and all other persons are hereby enjoined and prohibited from cutting, taking and removing from said land so purchased as aforesaid until they shall have given other good personal security for the purchase price of said land to said Comr. E.W.Pennington; and when said deferrred payments are due, said E.W. Pennington will proceed to collect the same and pay enough thereof to Cowan, JMcClung & Co. to discharge their recovery in this cause, and the residue, if any, hold subject to the future order of the court; and it is further adjudged ordered and decreed that on account of any failure to collect said sum of money from said purchasers by reason of the insufficiency of the present security, said Comr. E. W. Pennington and his sureties on his bond as such Comr. is hereby relieved from all liability: and the costs in said Comr. Pennington's hands, he will pay out to those to whom it belongs. And the cause is continued.

Note.--The answer of Cowan,McClung & Co., which was omitted to be copied at the proper place in this record, is in the words and figures, to- wit:

Answer of Cowan,McClung & Co. to Plaintiff's Amended Bill.

To the Hon.W.T.Miller,Judge of the Circuit Court for Lee Co.:

The answer of Cowan,McClung & Co. to an amended bill of William Pennington filed in this Honorable court ~~against~~ by him against C.E.Mallett, your respondent and others, in which your respondent has previously filed their pe tition setting out their claim to and interest in the subject matter of this suit, and in this their answer to the said bill they say that they desire to repeat the allegations set forth in their said petition, and ask that it be taken as part of this answer. Your respo ndents repeat that they are advised that they are entitled to the first lien upon the fund due by C.E.Mallett to him, the said William Pennington, by reason of the assignment made to E.W.Pennington,Trustee to secure their said debt, and pray that upon the sale of the property asked for by the said Pennington, which sale your respondents join is asking, that the first proceeds of the sale be directed to be paid over to your respondents in a sum sufficient to discharge the debt to them by the said Pennington as set out in the said petition of your said respondents. And upon a hearing may all other, further and general relief be granted your petitioners and respondents that is in keeping with equity and good conscience.

And they will as in duty bound ever pray &c.

Robt.L.Pennington,

For Cowan,McClung and Co.

And at another day, to-wit:

Decree No.3.

Virginia,

At a circuit court continued and held at the court-house thereof on

of, on _____, the 8th day of June, 1898.

Wm.Pennington, Complt.

vs. In Chancery.

C.E.Mallett et al. Defts.

This cause came on again to be heard upon the papers formerly read therein, and the report of Comr.E.W.Pennington, showing his receipts and disbursements up to June 1st,1898, filed in this cause on the day of June, 1898, and was argued by counsel. On consideration of all which it is adjudged ordered and decreed that said report and the receipts and disbursements of said Comr.Pennington be and the same is hereby confirmed. And the said Comr.Pennington will receive from said Russell & Pennington any sum of money which they may desire to pay him on the bonds yet owing by them on account of their purchase of lands in this cause before the same becomes due, which he will disburse as directed in the order of June 12th, 1897, entered in this cause. And this cause is continued.

Report Referred to in Above Decree.

Wm.Pennington, Complt.

vs. In Chancery.

C.E.Mallett et al. Defts.

To the Hon.W.T.Miller,Judge of the Circuit Court for Lee County:

Your undersigned commissioner, who was directed by an order entered in the above styled cause on June 12th,1897, to collect from C.D.Russell and I.Pennington, the purchasers of the land mentioned in this cause, the money due by them on their purchase, and to pay the same over to Cowan,McClung & Co., or a sufficiency thereof to ~~xxxxxx~~ discharge their debt against Wm.Pennington: and also to pay out to those entitled to costs the money which he then had in his hands, begs leave to report that he has paid out on costs in this cause to those entitled and retained in his hands as commissions the

sum of $104.00: and from said Russell & Pennington he has up to this date received on the purchase price of the land bid in by them the sum of $1025.63 which sum your commissioner has paid over to said Cowan McClung & Co. Your commissioner here files a statement of the entire receipts ~~and disbursements~~ by him on account of his commissionership in this cause, and how he has disbursed the same, which statement shows there is now in his hands the sum of $5.00. The sum paid by said Russell & Pennington was paid me through G.W. Pennington and A.K.Debusk, and is sufficient to discharge the first bond of said Russell & Pennington with $.7.54 credited on the second bond, which will not be due until May 17th,1899. But said Russell & Pennington inform me they want to pay the same off perhaps before the same becomes due. Now your commissioner prays that this report, and the statement of his receipts and disbursements be confirmed; and that he be authorized to receive from said Russell & Pennington whatever sums they may want to pay on the bonds yet due by them. All which is respectfully submitted. This June 1st,1898.

E. W. Pennington,Special Commissioner,

And at another day, to-wit:

Decree No.4.

Virginia,

At a circuit court continued and held for Lee county, at the court-house thereof, on _____, the 7th day of July, 1902.

Wm.Pennington, Complt.

vs. In Chancery.

C.E.Mallett etal. Defts.

This cause came on again to be further heard upon the papers formerly read therein, and the report of receipts and disbursements ~~and disbursements~~ of Comr.E.W.Pennington, and exceptions thereto of Wm.Pennington and I.Pennington, and was argued by counsel: On

consideration of all which and for reasons appearing to the court, the said exceptions are over_ruled: it is therefore adjudged,ordered and decreed that said report and statements therewith of E.W.Pennington be and the same are hereby confirmed, and said Pennington hereby released and absolved from any future liability on his bond as such commissioner. And it further appearing to the court from said Pennington,s report that said C.D.Russell and Isaiah Pennington have paid in full the purchase price of the lands which they bought in said cause, and are now entitled to a deed to the same, it is further adjudged, ordered and decreed that E.W.Pennington, who is hereby appointed a special commissioner for the purpose, will make and deliver to said Russell and Pennington a deed with covenants of special warranty, to the lands which they bought in this cause, and report his action to court as soon as possible: and to the time of the making of such deed and the filing of his report, this cause is continued.

Report of E.W.Pennington,of Receipts &c.

Wm.Pennington, Complt.

vs. In Chancery.

C. E. Mallett et als. Defts.

To the Hon.H.A.W.Skeen,Judge of the Circuit Court for Lee County:

Your undersigned, who was heretofore in this cause directed to collect and pay out the proceeds of the sale of the lands mentioned in ~~this~~ this cause and sold to C.D.Russell and I.Pennington, beg leave to report that he has collected from said Russell and Pennington the whole of the purchase price of said land except $160.00 which sum was paid to your commissioner by A.K.DeBusk, one of their sureties: that the whole of the purchase price of said landsas collected have been paid out to the parties as shown in an exhibit marked "8" herewith filed and asked to be taken as a part of this report. On the last note given on the purchase price of said land, your commis-

sioner took judgment at law, and it was on this judgment said DeBusk paid said $160.00. Said Russell and Pennington paid all of said purchase price of said land except that paid by their surety, DeBusk. Now, the land having been paid for, your commissioner supposes that said Russell and Pennington are entitled to a deed to the same. And now, having performed his duties as commissioner, and having paid out the funds which came to his hands, your commissioner prays to be exonerated from any liability on his bond given as such commissioner. This February 21at, 1902.

E. W. Pennington.

Statement with said Report.

Chancery Cause of Wm.Pennington vs. C. E. Mallett et al.

In apc with E.W.Pennington, Comr.

1897 June 1.	By amt.from Russell & Pennington		$109.00
21.	To amt.paid A.B.Munsey,clerk (1)	10.00	
12.	" " " A.M.Brown for orders Pub.....(2)...	10.00	
"	" " retained Atty.fee (3)	15.00	
"	" " " Com.on $3000.00 (4)	69.00	
1898,Mar.14.	By " from R.&.P.thro DeBusk		53.39
" "	" " " " " "		95.39
April 4,	" " " " " "		103.07
Mar.25.X	To " paid Cowan & McClung & Co.(5)	148.78	
April 4,	" " " " " (6)	103.07	
A " 14	By " from R.& P. through A.K.DeBusk		53.80
" 15,	" " " " " "		51.74
" 15,	To " paid Cowan,McClung & Co. (7)	105.54	
" 30,	By " from R.& P. through A.K.DeBusk,		360.42
May 2,	To " paid Cowan,McClung & Co.,(8)	360.42	
" 23,	By " from R.& P. thro A.K.DeBusk,		307.82
" 24,	To " paid Cowan,McClung & Co (9)	307.82	
June, 1,	" Bal.in E.W.P's hands	5.00	

		$1134.63	1134.63
June 1,	By Bal.per contra.		5.00
JuneJune 4,	By amt.from R. & P. through A.K.DeBusk (I0)		255.92
June,17,	" " " " " "		157.47
June 10,	To amt.paid Cowan,McClung & Co.,	255.94	
" 27,	" " " " (11)	157.47	
Sept.5,	By amt.from R.& P. thro Grady & Co $50.00 & DeBusk $101.51		151.51
" 5,	To " paid Cowan,McClung & Co.(12)	151.51	
" 29,	By " from R.& P.thro Debusk		106.43
Oct. 3,	" " " " " Grady & Co.,		100.00
Oct.14,	To amt. paid Cowan,McClung & Co.,(13)	206.43	
" 14,	By " from R.& P.thre DeBusk	6	102.56
Nov.17	To taxes paid	22.12	
Dec. 15,	By amt.from R & P thro DeBusk		114.40
16,	To " pd.Cowan,McClung & Co. (15)	115.00	
Jan. 3,99	By " from R & P.thro Starkey & Grady		100'00
To	To " paid Cowan,McClung & Co. (16)	110.00	
Jan.28/99	By " from R & P.thro DeBusk		110.05
do	To " paid Cowan,McClung & Co. (17)	120.00	
June 10/99	By " from R & P thro DeBusk		175.52
June 12/99	To " paid Cowan,McClung & Co., (18)	200.00	
June 23,	By " from Starkey & Co for R & P.		50.00
June 26,	" " " DeBusk do		55.01
July 27,	" " " Starkey & Co do		50.00
July 3I, To	To " paid Cowan,McClung & Co.,(19)	160.00	
Sept. 30,	By " Grady & Co for R & P		110.83
Oct. 3,	To " paid Cowan,McClung & Co.,(20)	120.00	
Nov. 11,	To " paid for taxes 1899 (21)	9.80	
1900 May 17,	By " from Grady & Co for R & P.		106.50
May 17,	To " paid Cowan,McClung & Co.,(22)	115.00	
June 27	By " from Grady & Co., for R & P		100.50
June 28,	To " paid Cowan,McClung & Co., 23	108.43	

11-15	To amt.paid taxes for 1900	24	5.76	
12-1	By amt.from C.D.Russell			100.00
12-3	To amt.paid Cowan,McClung & Co.,	25	25.10	
12-3	" " " Pennington Bros. note	26	20.30	
12-3	" " " E. W. Pennington note	27	32.09	
1901 5-1	By " from C.D.Russell thro Albert Kirk			50.00
5-7	To " pd. Powers Little & Co.	28	66.75	
9-25,	By " from Russell			24.00
9-25,	To amt.Pd.Powers,Little & Co.,		24.00	
1902, 1-6	By amt.from A.K.DeBusk,security for Russell & Pennington			160.00
1-9	To costs pd.A.B.Munsey		5.89	
1-6	To atty fee pd.Pennington Bros.		2.50	
	" clerk's fee pd.B.M.Morgan		.25	
	" fees & Coms.pd. I.P.Ely		10.00	
	" amt.pd.Powers,Little & Co.		139.99	
11--30/01	" " taxes for 1901		1.37	
			$2185.70	2185.70
				1134.63
				2185.70
				$3314.33

Exceptions to said Report.

William Pennington,

vs In Chancery.

C. E. Mallett et al. Defts.

The report of E.W.Pennington filed in this cause on the first day of July,1901, excepted to by William Pennington as follows:

The commissioner had no right to pay to the said E.W.Pennington note filed as voucher No.27 with his report, amounting to $32.09, but the same should have been paid to Powers,Little & Co. The land in this cause was sold for $3000.00. After the payment of costs and the debt of Cowan,McClung & Co., which was the first lien, the res-

idue was directed by William Pennington to be paid to Powers,Little & Co., on a judgment. The commissioner had no right to retain a part of this fund to pay his own private debts.

The confirmation of this report is excepted to by Isaiah Pennington, because this suit is not in a condition to make to him and C.D.Russell a good and sufficient deed. At the time of the institution of this suit the legal title to the land herein sold and purchased by the said Isaiah Pennington and C.D.Russell, was in the Pocket Company (a corporation), and said Pocket Company has never been served with process in this cause; hence no title can be made for the land sold.

L. T. Hyatt, A tty.for Wm.Pennington & Isaiah Pennington.

Report of Deed.

Wm.Pennington Complt.

vs In Chancery.

C.E.Mallett et al. Defts.

To the Hon.H.A.W.Skeen,Judge of the circuit court for Lee County:

Your undersigned E.W.Pennington, Special Commissioner, would respectfully report unto your honor that heretofore he was appointedin the above styled cause a special comr.to make C.D.Russell and Isaiah Pennington the purchasers of the land in said cause mentioned and described, that he has performed that duty and here files the deed which he has made to said parties for the inspection of the court. And now having performed his duties according to the appointment of your honor, he begs to be releaved from further duties hereunder.

All of which is respectfully submitted,

This the 3rd day of July,1902.

E.W.Pennington, Special Commissioner.

And now at this day to-wit.

Decree Final.

Virginia,

At a circuit court continued and held for Lee county, at the court-house thereof, on _____ the 8th day of July, 1902.

Wm.Pennington, Complt.

vs. In Chancery.

C.E.Mallett et al. Defts.

This cause came on again this day to be heard upon the papers formerly read herein, and the report and deed of E.W.Pennington filed herein, and was argued by counsel. On consideration of all which and said report being unexcepted to, and for reasons appearing to the court it is hereby adjudged, ordered and decreed that said reprt and deed be and are each hereby confirmed. And the said C.D.Russell and Isaiah Pennington will pay to the said E.W.Pennington the sum of five dollars for his services in making them the said deed. And there being nothing else to be done in this cause, it is stricken from the docket.

Virginia, Lee County, to-wit:

I, A.B.Munsey, clerk of the circuit court for the County and State aforesaid, do certify that the foregoing is a true transcript of the record and proceedings in a certain suit in chancery lately depending in the said court between Wm.Pennington, plaintiff, and Chas.E.Mallett et al., defendants, having copied therein every paper in said file except the vouchers mentioned in the statement of receipts and disbursements.

Given under my hand this the 4th day of October, 1902.

A.B.Munsey, clerk.

A. W. Pennington

v } In Chy.

Pocket Company.

"Exhibit No. 2."

Wm Pennington

v } Record

Chas E. Mallett.

Clerk fee for copy $10.00

L. T. HYATT.
ATTORNEY AT LAW.
JONESVILLE. VIRGINIA.

This deed made and entered into on this the 8th day of December, 1901, by and between C.D.Russell and S.C.Russell, his wife, parties of the first part, and Isaiah Pennington, party of the second part:

Whereas, at a sale made by E.W.Pennington, Special Commissioner in the chancery cause lately depending in the circuit court of Lee County, Virginia, entitled "William Pennington vs. C.E.Mallett et als". the said C.D.Russell and Isaiah Pennington became the joint purchasers of all the real estate lying in the "Pocket" which had been theretofore sold and conveyed by the said William Pennington and wife to the said Mallett; and

Whereas, there is yet due to the said E.W.Pennington, Special Commissioner as aforesaid, a sum amounting to a little over one hundred dollars on the purchase price thereof, and no deed has yet been made to the said C.D.Russell and Isaiah Pennington for said land; and

Whereas, the said C.D.Russell and Isaiah Pennington have mutually partitioned the said lands between them, and pursuant to their agreement of partition the said Isaiah Pennington and wife have heretofore conveyed a portion of the said lands to the said C.D.Russell; and

Whereas the said Isaiah Pennington has agreed to pay to the said E.W.Pennington, Special Commissioner, one hundred dollars of the balance of purchase money due as aforesaid to the said commissioner;

Now, therefore, this deed Witneseth, that for and in consideration of the premises and of the sum of one dollar, cash in hand paid, the receipt whereof is hereby acknowledged, the said parties of the first part hereby sell, release and convey unto the said party of the second part, with General Warranty, all that certain tract or parcel of land lying in the "Pocket" in Lee County, Virginia, on Straight creek, and bounded as follows, to-wit:

Beginning at a white oak, a corner to the old Thomas Pennington tract of land bought of Benjamin Dickinson, on an east hill-side, on Puckets creek, and running thence southeastwardly fifty poles to pointers on a steep hill-side, thence with a line of said Thomas Pennington land southeastwardly to a stake in a hollow at the north end of the "mules lot, thence down said hollow to a beech on the ~~head~~

edge of the Straight creek wagon road, thence with the Mallett line to a buckeye on the bank of Straight creek, thence continuing with said Mallett line, down said creek to a black walnut, and continuing with said creek and line to a black oak on the north side of Straight creek, and down and with said line and creek to a stake opposite a black walnut, and thence eastwardly to the top of Stone mountain, and thence continuing with the several courses of said Mallett land to the beginning, containing about 170 acres, more or less.

To have and to hold the same, together with its appurtenances, unto the said party of the second part, his heirs and assigns, forever.

And it is expressly understood and agreed between the parties hereto that one hundred dollars of the purchase price yet due E.W. Pennington, Spe.Comr., as between the parties, shall be and constitute a first lien on the land hereby conveyed, and the same shall be sold to satisfy the said $100.00 before any of the said land heretofore conveyed by the said Isaiah Pennington to ~~the~~ said C.D.Russell, and the balance of the said purchase money due E.W.Pennington, Spe.Comr.shall be and constitute a first lien on the said land conveyed to said C. D.Russell by the said Isaiah Pennington & wife.

Witness the following signatures and seals.

C. D. Russell, (Seal.)

S. C. Russell, (Seal.)

Virginia, Lee County, to-wit:

I, L.T.Hyatt, a commissioner in chancery for the circuit court of Lee County, Virginia, the same being a court of record, do hereby certify that C.D.Russell and S.C.Russell, whose names are signed to the foregoing writing bearing date the 8th day of December, 1901, have acknowledged the same before me in my county aforesaid.

Given under my hand this the 9th day of December, 1901.

L. T. Hyatt, Comr. in Chy.

Virginia, Lee County, to wit:

In the office of the clerk of the county court for the county aforesaid, the 10th day of December, 1901. This deed was presented and, together with the certificate thereto annexed, admitted to record.

Teste: B. M. Morgan, clerk.

A copy, Teste: B. M. Morgan, clerk.

Lee County Deed Book No.38, page 166.

A. N. Pennington
v. } In Chy
Pocket Company

"Exhibit No: 3"

C. D. Russell etux
To } Deed
Isaiah Pennington.

Clerk 60 cts

L. T. HYATT,
ATTORNEY AT LAW,
JONESVILLE, VIRGINIA.

This deed made this the 27th day of August, 1901, by Isaiah Pennington and Rachael E., his wife, of County, Wyoming, parties of the first part, to L.M.Zion A.N.Pennington, of Lee County, Virginia, parties of the second part,

Witnesseth that for and in consideration of the sum of seven hundred dollars ($700.00) payable in one, two, three and four years in equal anual installments with interest from this date the said parties of the first part do and each of them doth hereby give, grant, bargain, sell, convey and deliver unto the said parties of the second part, subject to the rights and interests of F.A.Stratton, his vendees and assigns, a certain tract or parcel of land lying and being in Lee County in the Pocket Country on the waters of Stone and Straight creek and being a part of the Mournin Andis dower land and having atvone time been conveyed to Wm.Pennington by John Z.Ely et al. and is bounded as follows, to-wit:

Beginning at two white oaks on the west side of Puckets creek, thence with original line South 50 West 50 poles to pointers, South 22½ East 140 poles to a stake and pointers in a hollow, thence leaving orriginal line North 57¾ east 11 poles to a beach on the west bank of the public road; south 86½ east 7 poles to a buckeye on the west bank of Straight creek; south 64 east 18 poles to a black walnut; north 27½ east 34 poles to a black oak on the north side of said creek a corner to Salem church lot, thence with the meanders of said creek north 60 east 10 poles, east twelve poles opposite a black walnut; thence leaving said creek north 28¾ east 64 poles to a stake and pointers on ~~the~~ top of a large rock which is on top of the Loan Mountain, thence nearly with the top of same North 51¼ east 60½ poles , north 37 east 25 poles to a black gum, north20 east 42½ poles near an old mark corner a red oak, 2 black oaks and a sourwood, north 24 west 8¼ poles to a white oak; north 16¼ west 26½ poles to a burnt chestnut; north 18 east 20½ poles to a stake; north 27½ east 2o poles to 2 maples and a black gum (the Jno.L.Pennington corner), thence leaving the top of said mountain south 71 west 103 poles to a red oak and white oak on the top of a spur or ridge thence to the top

thereof north38½ west 20½ poles, north 51¼ west 37¾ poles, north 22½ west 7½ poles to 4 sourwoods a hickory and cucumber on a point, south 89west 6½ poles, south 78½ west 19 poles to a black gum on the line of the McCredie survey and with the same south 31°5' east 63 poles to a poplar, south 17 west 21 poles to the Beginning and containing 170 acres, more or less.

To have and to hold said tract of land subject to the rights of said Stratton his vendees and assigns unto the said party of the second part, their heirs and assigns forever.

And the said parties of the first part for themselves and assigns covenant with the said parties of the second part, their heirs and assigns, that they will warrant generally the title to said land with the exceptions aforesaid; that they have a lawful right to convey the same and that the same is free from all incumbrances except as to the rights of said Stratton therein. And the said parties of the first part reserve unto themselves a vendor's lien on said land until the said $700.00 together with its interest is fully paid.

Witness the following signatures and seals the day and year first above written.

Isaiah Pennington, (Seal.)

Rachel E.Pennington, (Seal.)

State of Wyoming, Johnson County County, to-wit:

I, Alvin Bennett, a N.P.in and for the Co. and State aforesaid do hereby certify that Isaiah Pennington and Rachael Pennington whose names are signed to the foregoing deed bearing date on the 27th date of August, 1901, have acknowledged the same before me in my county aforesaid,

Alvin Bennett Notary Public Johnson County Wyoming

Given under my hand and notarial seal this the 11th day of October, 1901.

Alvin Bennett,

Notary Public.

My com.expires August 7th 1903.

~~Virginia, Lee County, to-wit:~~

Virginia, Lee County, to-wit:

In the office of the clerk of the county court for said county, the 8th day of February, 1902. This deed was presented, and together with the certificate thereto annexed, admitted to record.

Teste: B. M. Morgan, clerk.

A copy, Teste: B. M. Morgan, clerk.

Lee County Deed Book No.38, page 263 &c.

A. N. Pennington
v } In Chancery
Pocket Company.

"Exhibit No 4".

Isaiah Pennington etux
To } Deed
L. M. Zion et als.

Clerk. 70cts

L. T. HYATT.
ATTORNEY AT LAW,
JONESVILLE, VIRGINIA.

This Deed, made and entered into on this the 10th day of February, in the year of our Lord one thousand nine hundred and two, by and between L.M.Zion and Minerva C.Zion, his wife, of the County of Lee and State of Virginia, parties of the first part, and A.N.Pennington, of the County and State aforesaid, parties of the second part,

WITNESSETH: That the said parties of the first part, for and in consideration of the sum of two hundred & forty seven & 69/100 dollars paid and to be paid, the receipt whereof is acknowledged, have this day granted and sold, and, by these presents, do grant, bargain, sell, deliver and convey unto the said party of the second part, with GENERAL WARRANTY, the following described real estate,to-wit

First:--An undivided one half interest in and to that certain tract or parcel of land, lying and being in the said County of Lee, in the Rocky Station Magisterial District, in that section of country called the "Pocket", on the Straight creek, which is bounded and further described as follows, to-wit: Beginning at two white oaks on the west side of Puckets creek, thence with the original line S. 50° W.50 poles to pointers; S.22½° E.140 poles to a stake and pointers in a hollow; thence, leaving original line, N.57¾° E.11 poles to a beech on the west bank of the public road; S.86½° E.7 poles to a buckeye on the west bank of Straight creek; S.64° E.18 poles to a black walnut; N.27½° E. 34 poles to a black oak on the north side of said creek, a corner to Salem church lot; thence, with the meanders of said creek, N.60° E.10 poles, East 12 poles opposite a black walnut; thence, leaving said creek, N.28¾° E.64 poles to a stake and pointers on top of a large rock which is on top of the Lone mountain; thence, nearly with the top of same, N.51½° E.60½ poles, N.37° E.25 poles to a black gum, N. 20° E.42½ poles near an old marked corner, a red oak, two black oaks, and a sourwood, N.24° W.8¼ poles to a white oak; N.16¼° W.26½ poles to a burnt chestnut; N. 18° E.20½ poles to a stake; N.27½° E.20 poles to two maples and a black gum (the John L.Penning~~ton~~ corner); thence, leaving the top of said mountain, S. 71° W.103 poles to a red oak and white oak on the top of a spur or ridge; thence to the top thereof, N.38½° W.20½ poles, N.51¼° W.

37¾ poles, N. 22½° W.7½ poles to four sourwoods, a hickory and cucumber on a point, S.89° W.6½ poles, S.78½° W.19 poles to a black gum on a line of the McCredie survey, and with the same S.31° 5' E. 63 poles to a poplar, S.17° W.21 poles to the beginning, and containing one hundred and seventy (170) acres, more or less, being the same tract of land which was conveyed to the said L.M.Zion and A.N.Pennington by Isaiah Pennington and wife by deed dated the 27th day of August, 1901,and recorded in Lee County Deed Book No.38, page__ to which reference is here made; and

Second.--All that certain tract or parcel of land which was conveyed to the said L.M.Zion by Barbara J.Pennington and her husband, by deed dated the 2nd day of August, 1901, and recorded in Lee County Deed Book No.37, page 533, to which reference is here made for a more particular description. It is understood that the coal &c. in, on and under a part of the first above described tract, is owned by F. A.Stratton, or his vendees, and is intended to be excepted from the operation of this deed; also that the second above described tract is covered in part by a dower as shown by the said deed from the said Barbara J.Pennington.

To have and to hold the said real estate, together with all the appurtenances thereunto belonging, unto the said party of the second part, his heirs, and assigns forever, subject, however, to the exceptions above mentioned.

Witness the following signatures and seals.

L. M. Zion, (Seal.)

Minerva C.Zion, (Seal.)

Virginia, Lee County, to-wit:

I, J. F. Skaggs, a Justice of the Peace in and for the County aforesaid, in the State of Virginia, do hereby certify that L.M.Zion and Minerva C.Zion, whose names are signed to the foregoing writing, bearing date on the 10th day of February, 1902, have each acknowledged the same before me in my county aforesaid.

Given under my hand this the 14 day of February, 1902.

J. F. Skaggs, J. P.

Virginia, Lee County, to-wit:

In the office of the clerk of the county court for the said county the 2nd day of Oct.,1902. This deed was presented, and together with the certificate thereto annexed, admitted to record.

Teste: B. M. Morgan, clerk.

A copy, Teste: B. M. Morgan, clerk.

Lee County Deed Book No.39, page 287.

A. N. Pennington
v } In Chancery
Pocket Company

"Exhibit No. 5"

L. M. Zion & wife
To } Deed
A. N. Pennington.

Clerk. 65 cts

L. T. HYATT,
ATTORNEY AT LAW,
JONESVILLE, VIRGINIA.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE again *COMMAND YOU, That you summon* The Pocket Company

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on the 1st *Monday in* October, *1902*, *to answer a bill in chancery exhibited against* It *in our said court by* A. N. Pennington

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the 25th *day of* September, *1902*, *and in the* 127th *year of the Commonwealth.*

A. B. Munsey, *Clerk.*

Serve Copy on
Henry Nicoll

A. M. Pennington

vs. { SUBPOENA IN CHANCERY.

Pocket Company

L. T. Hyatt p. q.

To 1st October Rules.
1902. Circuit Court.

Executed Sept 28-1902
by delivering a true copy
of the within Summons
to Henry Nickell in
Person D. B. Byington D. S.
for W. J. Mitchell.
S. L. C

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon The Pocket Company

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on the 1st *Monday in* October, 1902, *to answer a bill in chancery exhibited against* the St *in our said court by* A. N. Pennington

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the 17th *day of* September, 1902, *and in the* 127th *year of the Commonwealth.*

A. B. Munsey, *Clerk.*

Sept 27, 1902

Executed by posting a copy of the within Spa. on the front door of Henry Nicoll in Lee County, Va, he being a director of the Pocket Company and not found at his usual place of abode and there being no President, Vice-President, Secretary, Treasurer or other officer of said Company found in said County. This Sept Oct 8th 1902.

D. P. Ely D.S.
for W. J. Milcham
S.L.A.

A. N. Pennington
vs. { SUBPOENA IN CHANCERY.
Pocket Company

L. T. Hyatt p. q.

To 1st October Rules.
1902 Circuit Court.

D. P. Ely
Sept 27 1902

Serve Copy on
Henry Nicoll

A. N. [illegible]

vs } Bill

Pocket Company